

EXHIBIT B

CONDENSED

In the Matter Of:
BISSONNETTE vs PODLASKI

1:15-CV-334-SLC

BENJAMIN SEVIER

January 06, 2017



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<p style="text-align: right;">Page 5</p> <p>1 Sevier</p> <p>2 BENJAMIN PATRICK SEVIER, called as a</p> <p>3 witness by the Defendants, having been</p> <p>4 duly sworn, testified as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. FURMAN:</p> <p>7 Q. Mr. Sevier, good morning.</p> <p>8 A. Good morning.</p> <p>9 Q. Thank you for being here today.</p> <p>10 But before we begin your counsel</p> <p>11 would like to just make an understanding on</p> <p>12 the record that we have agreed to off the</p> <p>13 record.</p> <p>14 MS. FOLEY: Just I want to state</p> <p>15 for the record my name is Carolyn</p> <p>16 Foley, I work for Penguin Random House</p> <p>17 and I am appearing here on behalf and</p> <p>18 representing the witness.</p> <p>19 The counsel have all agreed that</p> <p>20 the transcript of this deposition will</p> <p>21 be used for purposes of this</p> <p>22 litigation only.</p> <p>23 MR. FURMAN: That is agreed to</p> <p>24 by all parties; is that correct?</p> <p>25 MR. JOHNSTON: Yes.</p>	<p style="text-align: right;">Page 7</p> <p>1 Sevier</p> <p>2 them marked as an exhibit.</p> <p>3 MR. FURMAN: This will be</p> <p>4 Exhibit Number 108.</p> <p>5 (Document Bates numbered PRH1</p> <p>6 through 90 was marked Exhibit 108 for</p> <p>7 identification)</p> <p>8 MR. FURMAN: These are, so I can</p> <p>9 identify them, they are listed as</p> <p>10 Bates numbers PRH1 through 90.</p> <p>11 BY MR. FURMAN:</p> <p>12 Q. Have you seen this before, this</p> <p>13 exhibit, these documents that are listed 1</p> <p>14 through 90?</p> <p>15 MS. FOLEY: You are asking if he</p> <p>16 has seen them as a package?</p> <p>17 MR. FURMAN: As a package.</p> <p>18 THE WITNESS: No.</p> <p>19 BY MR. FURMAN:</p> <p>20 Q. Okay. Did you participate in the</p> <p>21 gathering of documents that were related to</p> <p>22 this litigation?</p> <p>23 A. Yes.</p> <p>24 Q. Can you describe the manner in</p> <p>25 which that took place?</p>
<p style="text-align: right;">Page 6</p> <p>1 Sevier</p> <p>2 I am sorry. It is.</p> <p>3 BY MR. FURMAN:</p> <p>4 Q. Mr. Sevier, good morning.</p> <p>5 We are here today in connection</p> <p>6 with a litigation of Matthew Bissonnette</p> <p>7 against Kevin Podlaski and others including</p> <p>8 his law firm.</p> <p>9 Are you aware of that litigation?</p> <p>10 A. Yes.</p> <p>11 Q. We had sent a subpoena to you</p> <p>12 through the Davis Wright Tremaine firm and</p> <p>13 you received a copy of that subpoena?</p> <p>14 MS. FOLEY: I will just state</p> <p>15 for the record I have a copy -- I</p> <p>16 accepted service of that subpoena.</p> <p>17 BY MR. FURMAN:</p> <p>18 Q. Okay. So you understand that you</p> <p>19 are here pursuant to a subpoena to give</p> <p>20 testimony in relation to this particular</p> <p>21 case?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Now previously in this</p> <p>24 litigation documents were produced from</p> <p>25 Dutton and I just want to show them and have</p>	<p style="text-align: right;">Page 8</p> <p>1 Sevier</p> <p>2 A. I made my computer available to my</p> <p>3 attorneys.</p> <p>4 Q. Did you yourself do anything</p> <p>5 beyond that, in other words, search for</p> <p>6 documents, search e-mails or search through</p> <p>7 a file?</p> <p>8 A. No.</p> <p>9 Q. Before the documents were produced</p> <p>10 in this litigation and I will represent to</p> <p>11 you that these are the documents that were</p> <p>12 produced from Dutton in this litigation, did</p> <p>13 you --</p> <p>14 MS. FOLEY: I am going to stop</p> <p>15 you actually.</p> <p>16 We did not produce these</p> <p>17 documents in the course of this</p> <p>18 litigation.</p> <p>19 I believe these documents were</p> <p>20 produced in the course of a previous</p> <p>21 litigation brought in New York.</p> <p>22 MR. FURMAN: When I say "this</p> <p>23 litigation," I am speaking broadly of</p> <p>24 the Bissonnette versus Podlaski, et</p> <p>25 al. case which originated in New York</p>

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<p style="text-align: right;">Page 9</p> <p>1 Sevier</p> <p>2 and was restarted in Indiana so --</p> <p>3 MS. FOLEY: I guess the point is</p> <p>4 we didn't produce these documents in</p> <p>5 the course of this litigation. We</p> <p>6 didn't make that production.</p> <p>7 MR. FURMAN: Okay. And when I</p> <p>8 say -- in the course of the New York</p> <p>9 litigation were these documents</p> <p>10 gathered and produced.</p> <p>11 MS. FOLEY: Yes.</p> <p>12 MR. FURMAN: That's correct.</p> <p>13 BY MR. FURMAN:</p> <p>14 Q. Okay. So Mr. Sevier, did you</p> <p>15 participate in that, in that process in the</p> <p>16 gathering of documents in the New York</p> <p>17 litigation?</p> <p>18 A. Yes.</p> <p>19 Q. Have you seen them before? After</p> <p>20 they were gathered and the e-mails were</p> <p>21 taken off of your computer were they shown</p> <p>22 to you?</p> <p>23 A. Not in this, not as a packet, not</p> <p>24 in total. I haven't seen this before.</p> <p>25 MS. FOLEY: And actually may I</p>	<p style="text-align: right;">Page 11</p> <p>1 Sevier</p> <p>2 whether they are from your files you</p> <p>3 can answer.</p> <p>4 If you don't know you can answer</p> <p>5 you don't know.</p> <p>6 You know, I will let the</p> <p>7 witness -- the witness can answer the</p> <p>8 question.</p> <p>9 I think that it is probably best</p> <p>10 for you and I to talk off the record</p> <p>11 and maybe during a break if you want</p> <p>12 to clarify something during lunch but</p> <p>13 the witness made his files available</p> <p>14 but I don't know that he is capable of</p> <p>15 saying where any document came from.</p> <p>16 It is probably best if we talk</p> <p>17 about the production.</p> <p>18 MR. FURMAN: Okay. The question</p> <p>19 I am asking of the witness really</p> <p>20 isn't all that complicated because the</p> <p>21 entire production -- virtually the</p> <p>22 entire production involves e-mails and</p> <p>23 there are some letters that are</p> <p>24 attached at the end so what I am</p> <p>25 asking him to do is to come through</p>
<p style="text-align: right;">Page 10</p> <p>1 Sevier</p> <p>2 just talk to the witness for one</p> <p>3 minute?</p> <p>4 MR. FURMAN: Sure.</p> <p>5 Off the record.</p> <p>6 (Discussion off the record)</p> <p>7 MS. FOLEY: The witness is going</p> <p>8 to add one more detail of his efforts</p> <p>9 regarding production of documents.</p> <p>10 BY MR. FURMAN:</p> <p>11 Q. Okay.</p> <p>12 A. I also made my physical files</p> <p>13 available to my attorneys.</p> <p>14 Q. Could you take a moment just to</p> <p>15 thumb through these documents. The reason I</p> <p>16 am asking you to do that is I want to make</p> <p>17 sure that these documents were from your</p> <p>18 file in the ordinary course of your business</p> <p>19 at Dutton. It is for that purpose I am</p> <p>20 asking you to thumb through 1 through 90.</p> <p>21 MS. FOLEY: You want to ask if</p> <p>22 they are all from his files?</p> <p>23 MR. FURMAN: Correct.</p> <p>24 MS. FOLEY: So if you can look</p> <p>25 through them and if you can tell</p>	<p style="text-align: right;">Page 12</p> <p>1 Sevier</p> <p>2 these e-mails and it is largely</p> <p>3 repetitive and I just want to make</p> <p>4 sure that they were e-mails that were</p> <p>5 produced in the ordinary course of</p> <p>6 Mr. Sevier's business.</p> <p>7 MS. FOLEY: Here is the problem.</p> <p>8 If you look at the -- if you look at</p> <p>9 the first one the e-mail is from Alex</p> <p>10 Gigante so while the documents were --</p> <p>11 we searched Mr. Sevier's documents for</p> <p>12 sure, he was not the only person so</p> <p>13 whether or not these were in his files</p> <p>14 is hard to answer. They may or may</p> <p>15 not have been.</p> <p>16 MR. FURMAN: Right.</p> <p>17 MS. FOLEY: So that is my</p> <p>18 concern. He is not always the author</p> <p>19 of all of these documents.</p> <p>20 MR. FURMAN: Yes, I understand.</p> <p>21 MS. HIROSE: Nor is he copied on</p> <p>22 all of these.</p> <p>23 MR. FURMAN: Right. Understood.</p> <p>24 THE WITNESS: I have looked</p> <p>25 through them.</p>

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1 Sevier
2 Can you repeat the question?
3 BY MR. FURMAN:
4 Q. Yes, the question is, now that you
5 have had the opportunity to thumb through
6 these documents do they appear to you to be
7 documents that are from Dutton and were
8 produced, these documents, e-mails, even the
9 ones that for example number 1 which is from
10 Alex Gigante to Kevin Podlaski, are these
11 documents in your mind in the ordinary
12 course of Dutton's business?
13 A. Yes.
14 MS. FOLEY: Objection.
15 Foundation.
16 BY MR. FURMAN:
17 Q. We will get back to individual
18 questions about number 1. I just wanted to
19 ask that general question.
20 Let me ask you some questions
21 about your background and then we will come
22 back to the documents.
23 How long have you been in the
24 publishing industry?
25 A. About 18 years.

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1 Sevier
2 Q. What is just a thumbnail sketch of
3 your educational background?
4 A. I graduated with a Bachelor's
5 Degree from UCLA.
6 Q. Did you attend graduate school?
7 A. No.
8 Q. How long have you been at Dutton?
9 A. Ten years.
10 Q. What is your current position?
11 A. Vice president and publisher of
12 Dutton.
13 Q. How long have you had that
14 position?
15 A. I have been publisher for about
16 two years.
17 I have been vice president for
18 about four years.
19 Q. What other positions have you had
20 at Dutton?
21 A. I started ten years ago as a
22 senior editor and then I became an executive
23 editor and then I became editor in chief and
24 then I became vice president and then I
25 became vice president and publisher.

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1 Sevier
2 Q. What years were you editor in
3 chief?
4 A. From 2011 until 2000 and -- the
5 end of 2014, beginning of 2015, somewhere in
6 there.
7 Q. During the time that No Easy Day
8 was in production and through its release
9 were you the editor in chief of Dutton?
10 A. Yes.
11 Q. Does Dutton go by a different name
12 or affiliation called Penguin?
13 A. Dutton is a part of Penguin.
14 Q. Does Dutton have any affiliates --
15 let me ask -- strike that. Let me ask a
16 better question.
17 What is the relationship between
18 Penguin and Dutton so I can understand how
19 it is generally?
20 A. Dutton is one of perhaps a dozen
21 imprints underneath the Penguin umbrella.
22 Q. Is Dutton a separately comprised
23 organization, in other words, is it a
24 subsidiary of Penguin or is Dutton a
25 corporation on its own right?

Page 16

1 Sevier
2 MS. FOLEY: Objection. Lack of
3 foundation.
4 If you know you can answer.
5 THE WITNESS: I don't really
6 know.
7 BY MR. FURMAN:
8 Q. Did you work at St. Martin's Press
9 prior to working at Dutton?
10 A. Yes.
11 Q. How long did you work there?
12 A. Approx --
13 Q. You can give me an estimate.
14 A. Approximately eight years.
15 Q. Okay. What was your duties at
16 St. Martin's?
17 A. I was an editor.
18 Q. Now, in the course of your career
19 as an editor and that includes your time at
20 St. Martin's have you ever had any kind of
21 security clearance from the U.S. Government?
22 A. No.
23 Q. Do you know what that is?
24 A. Generally.
25 Q. Tell me in general what you

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17-20

<p style="text-align: right;">Page 17</p> <p>1 Sevier</p> <p>2 believe that to be.</p> <p>3 A. As far as I know it is a</p> <p>4 designation from the government for</p> <p>5 individuals who are given access to</p> <p>6 different levels of information. That is</p> <p>7 about all I know about it.</p> <p>8 Q. Prior to No Easy Day have you been</p> <p>9 involved either as an editor or in any way</p> <p>10 in your employment through St. Martin's and</p> <p>11 Dutton with a military author other than</p> <p>12 obviously Mr. Bissonnette?</p> <p>13 A. Can you repeat the question?</p> <p>14 Q. Sure. Let me preface this. I am</p> <p>15 going to use Mr. Bissonnette's real name and</p> <p>16 the reason I am doing that in this</p> <p>17 particular case is because he is the</p> <p>18 plaintiff and has been named using his name.</p> <p>19 I appreciate and understand that</p> <p>20 when the book was written Mr. Bissonnette</p> <p>21 was using a pen name, Mark Owen and so --</p> <p>22 and it is understood in this litigation</p> <p>23 throughout that we have used</p> <p>24 Mr. Bissonnette's name, it is not because we</p> <p>25 are divulging anything that is not going to</p>	<p style="text-align: right;">Page 19</p> <p>1 Sevier</p> <p>2 Are all of the names that you described,</p> <p>3 Mr. Taylor, Mr. McCurley and Mr. Romeshea,</p> <p>4 are those their actual names as opposed to</p> <p>5 pen names?</p> <p>6 A. Those are their actual names.</p> <p>7 Q. Let's start with Mr. Taylor. What</p> <p>8 kind of book was that?</p> <p>9 A. Military thriller, fiction.</p> <p>10 Q. Do you remember the name of the</p> <p>11 book?</p> <p>12 A. The first book we did together was</p> <p>13 called One Rough Man.</p> <p>14 Q. One Rough?</p> <p>15 A. Man.</p> <p>16 Q. Man. Okay.</p> <p>17 Any other books?</p> <p>18 A. We are about to publish his 11th</p> <p>19 and I am afraid I am not going to remember</p> <p>20 the titles of all 11.</p> <p>21 Q. He has 11 books, right?</p> <p>22 A. That's right.</p> <p>23 Q. We don't need to go through the</p> <p>24 history of 11 books but in the course of</p> <p>25 being the editor for any one of those 11</p>
<p style="text-align: right;">Page 18</p> <p>1 Sevier</p> <p>2 the public but I understand that when you</p> <p>3 had worked on this, Mr. Bissonnette was</p> <p>4 known as Mark Owen but I am going to use</p> <p>5 that name so it is just easier for the</p> <p>6 record that we use his name consistently</p> <p>7 throughout. Other than -- so let me ask my</p> <p>8 question.</p> <p>9 Other than Mr. Bissonnette have</p> <p>10 you in your career worked with other</p> <p>11 military authors?</p> <p>12 MS. FOLEY: By "military</p> <p>13 authors," you mean people who worked</p> <p>14 in the military?</p> <p>15 MR. FURMAN: Yes, I do mean</p> <p>16 that.</p> <p>17 THE WITNESS: Yes.</p> <p>18 BY MR. FURMAN:</p> <p>19 Q. Who are they?</p> <p>20 A. Brad Taylor, T. Mark McCurley,</p> <p>21 Clinton Romeshea. That is who I can</p> <p>22 remember.</p> <p>23 Q. Let me start off with Brad Taylor.</p> <p>24 Strike that.</p> <p>25 Let me ask the first question.</p>	<p style="text-align: right;">Page 20</p> <p>1 Sevier</p> <p>2 books did you discuss with Mr. Taylor the</p> <p>3 need for obtaining any kind of security</p> <p>4 clearance for his work?</p> <p>5 MS. FOLEY: Objection to form.</p> <p>6 THE WITNESS: I don't recall any</p> <p>7 specific conversations.</p> <p>8 BY MR. FURMAN:</p> <p>9 Q. What was Mr. -- to the best of</p> <p>10 your knowledge what was Mr. Taylor's</p> <p>11 military background?</p> <p>12 A. He was an army -- he was in the</p> <p>13 army and at various points in his career he</p> <p>14 was an Army Ranger and he was in the unit</p> <p>15 commonly known as Delta Force.</p> <p>16 Q. Are you aware of whether or not</p> <p>17 Mr. Taylor was involved in any classified</p> <p>18 missions during the course of his military</p> <p>19 career?</p> <p>20 MS. FOLEY: Objection. I mean,</p> <p>21 I am going to direct the witness to</p> <p>22 answer anything that is public</p> <p>23 knowledge but going beyond that we are</p> <p>24 here to talk about Mr. Bissonnette and</p> <p>25 we are not here to talk about</p>

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<p style="text-align: right;">Page 21</p> <p>1 Sevier</p> <p>2 confidential information that may have</p> <p>3 been shared between Mr. Sevier and his</p> <p>4 authors.</p> <p>5 So limiting your answer to what</p> <p>6 is public knowledge about him.</p> <p>7 Repeat your question.</p> <p>8 MR. FURMAN: I don't know if I</p> <p>9 can accept your limitation because I</p> <p>10 am asking the witness what he knows,</p> <p>11 not what is public.</p> <p>12 MS. FOLEY: I am just telling</p> <p>13 you that is my direction to the</p> <p>14 witness. I take your point.</p> <p>15 We will take this one step at a</p> <p>16 time.</p> <p>17 BY MR. FURMAN:</p> <p>18 Q. So I want the record to be clear.</p> <p>19 If we need to raise this with the court, I</p> <p>20 am asking you, Mr. Sevier, if you are aware</p> <p>21 of whether or not Mr. Taylor was involved in</p> <p>22 any classified missions in the course of his</p> <p>23 military career?</p> <p>24 MS. FOLEY: I am directing you</p> <p>25 to answer that to the extent that</p>	<p style="text-align: right;">Page 23</p> <p>1 Sevier</p> <p>2 A. Hunter Killer.</p> <p>3 Q. Did you discuss with Mr. McCurley</p> <p>4 whether any of his experience that he was</p> <p>5 relating in the book had to do with any kind</p> <p>6 of classified information?</p> <p>7 MS. FOLEY: I am going to object</p> <p>8 to that question and I am going to</p> <p>9 direct you to answer that to the</p> <p>10 extent there was public knowledge of</p> <p>11 whether or not he was involved in any</p> <p>12 classified -- what was your phrasing</p> <p>13 of it, classified?</p> <p>14 MR. FURMAN: I forget.</p> <p>15 MS. FOLEY: Do you want to read</p> <p>16 back the question?</p> <p>17 (Record read)</p> <p>18 MS. FOLEY: So then the</p> <p>19 limitation is was there discussion</p> <p>20 publicly that any of the material</p> <p>21 related in the book had to do with</p> <p>22 classified information -- experiences</p> <p>23 related in the book had to do with</p> <p>24 classified information.</p> <p>25 THE WITNESS: I am sorry. I am</p>
<p style="text-align: right;">Page 22</p> <p>1 Sevier</p> <p>2 knowledge is public knowledge versus</p> <p>3 something that he has told you that is</p> <p>4 not publicly known about the author.</p> <p>5 THE WITNESS: No.</p> <p>6 BY MR. FURMAN:</p> <p>7 Q. We will let the question stand and</p> <p>8 your limitation and if there is any issue</p> <p>9 that we need to raise with the court we</p> <p>10 will.</p> <p>11 Let's move on to Mr. McCurley.</p> <p>12 What was Mr. McCurley's military background?</p> <p>13 A. He was in the Air Force.</p> <p>14 Q. Do you know what level he was in</p> <p>15 the Air Force? Was an officer?</p> <p>16 A. He was an officer.</p> <p>17 Q. What kind of book did he write,</p> <p>18 fiction, nonfiction?</p> <p>19 A. Nonfiction.</p> <p>20 Q. How many books did he write?</p> <p>21 A. One.</p> <p>22 Q. Do you remember the title of the</p> <p>23 book?</p> <p>24 A. Yes.</p> <p>25 Q. What was the title of that book?</p>	<p style="text-align: right;">Page 24</p> <p>1 Sevier</p> <p>2 completely confused. I will need</p> <p>3 somebody to repeat the question.</p> <p>4 MR. FURMAN: I am distracted by</p> <p>5 the objections. I am going to have to</p> <p>6 ask the reporter to read back the</p> <p>7 question.</p> <p>8 MS. FOLEY: Do you want to go</p> <p>9 off the record and let me discuss with</p> <p>10 the witness?</p> <p>11 MR. FURMAN: Yes. I don't mind</p> <p>12 at all.</p> <p>13 BY MR. FURMAN:</p> <p>14 Q. Mr. McCurley's book was</p> <p>15 nonfiction, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And I think you mentioned</p> <p>18 it was called Hunter Killer.</p> <p>19 To the best of your knowledge did</p> <p>20 that book involve any information that</p> <p>21 would -- was classified in any particular</p> <p>22 way by the U.S. Government?</p> <p>23 A. If you are asking whether the book</p> <p>24 we published contained any classified</p> <p>25 information, my answer is, no.</p>

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<p>1 Sevier</p> <p>2 Q. Did you make any effort in the</p> <p>3 course of editing the book that culminated</p> <p>4 in Hunter Killer to ascertain whether or not</p> <p>5 the book contained classified information?</p> <p>6 A. I had a conversation with the</p> <p>7 author prior to setting out to write the</p> <p>8 book -- his setting out to write the book</p> <p>9 and we agreed the book would contain no</p> <p>10 classified information and neither of us</p> <p>11 wanted it to contain any classified</p> <p>12 information and since I have no idea what is</p> <p>13 or is not classified, I said to him, it is</p> <p>14 your responsibility to make sure there is no</p> <p>15 classified information in this book.</p> <p>16 Q. Okay. So is it fair to say you</p> <p>17 relied on Mr. McCurley to carve out any</p> <p>18 classified information that would ultimately</p> <p>19 wind up in the book that was Hunter Killer?</p> <p>20 MS. FOLEY: Objection to the</p> <p>21 form. "Carve out any information that</p> <p>22 would ultimately end up in the book"</p> <p>23 sort of contradicts itself.</p> <p>24 BY MR. FURMAN:</p> <p>25 Q. Let me ask a better question then.</p>	<p>1 Sevier</p> <p>2 MR. FURMAN: His name is Clinton</p> <p>3 Romeshea.</p> <p>4 THE WITNESS: It is pronounced</p> <p>5 Romeshea and it is spelled</p> <p>6 R-O-M-E-S-H-E-A.</p> <p>7 MR. JOHNSTON: Thank you.</p> <p>8 BY MR. FURMAN:</p> <p>9 Q. When was that book published?</p> <p>10 A. Last year.</p> <p>11 Q. The book was published after No</p> <p>12 Easy Day?</p> <p>13 A. Yes.</p> <p>14 Q. What was Mr. Romeshea's highest</p> <p>15 position in the military to the best of your</p> <p>16 knowledge?</p> <p>17 A. I don't recall his specific rank</p> <p>18 but he was an enlisted army guy.</p> <p>19 Q. Was Red Platoon a firsthand</p> <p>20 account of the events that took place in</p> <p>21 Afghanistan that he wrote about?</p> <p>22 A. Yes.</p> <p>23 Q. Did you discuss -- well, I will</p> <p>24 not ask that question.</p> <p>25 Did you consider whether or not</p>
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<p>1 Sevier</p> <p>2 I will strike that.</p> <p>3 Did you rely on Mr. McCurley to</p> <p>4 avoid including any classified information</p> <p>5 in the book that culminated in Hunter</p> <p>6 Killer?</p> <p>7 A. Yes, I did.</p> <p>8 Q. When was that book published? You</p> <p>9 can just give me an estimate.</p> <p>10 A. A couple of years ago.</p> <p>11 Q. Clinton Romeshea, was it a fiction</p> <p>12 book or nonfiction book?</p> <p>13 A. Nonfiction.</p> <p>14 Q. Was that a first account story?</p> <p>15 A. I am not sure what you mean.</p> <p>16 Q. What was the name of the book?</p> <p>17 A. Red Platoon.</p> <p>18 Q. What generally was Red Platoon</p> <p>19 about?</p> <p>20 A. It was about the events at a</p> <p>21 military base on a particular day in</p> <p>22 Afghanistan during the war there.</p> <p>23 MR. JOHNSTON: I apologize for</p> <p>24 interrupting. I did not get the</p> <p>25 author's name.</p>	<p>1 Sevier</p> <p>2 classified information would be included in</p> <p>3 the book that became Red Platoon?</p> <p>4 MS. FOLEY: Object to the form</p> <p>5 of the question.</p> <p>6 THE WITNESS: I had the same</p> <p>7 conversation with him that I described</p> <p>8 earlier as having with Mr. McCurley.</p> <p>9 BY MR. FURMAN:</p> <p>10 Q. Beyond having the discussion with</p> <p>11 Mr. Romeshea did you take any efforts to</p> <p>12 make sure that no classified information</p> <p>13 would be released in the book Red Platoon?</p> <p>14 A. No. I relied on the author.</p> <p>15 Q. After Red Platoon was published</p> <p>16 did -- were you aware of whether or not any</p> <p>17 governmental agency inquired about the</p> <p>18 release of con -- classified information in</p> <p>19 the book Red Platoon?</p> <p>20 MS. FOLEY: Object to the form.</p> <p>21 THE WITNESS: I don't know of</p> <p>22 any.</p> <p>23 BY MR. FURMAN:</p> <p>24 Q. Do you know whether or not</p> <p>25 Mr. Romeshea had signed any nondisclosure</p>

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1 Sevier
2 agreements with the government?
3 A. I don't know that.
4 Q. Did you ask?
5 MS. FOLEY: If you remember.
6 THE WITNESS: I don't remember
7 specifically whether or not I asked
8 that question.
9 BY MR. FURMAN:
10 Q. Including Messrs. Taylor, McCurley
11 and Romeshea and any other authors that you
12 have been involved with in your career have
13 any of those authors in your experience have
14 signed nondisclosure agreements with the
15 government that you are aware of? Obviously
16 Mr. Bissonnette has. You are aware of that.
17 I am asking any other authors.
18 MS. FOLEY: Objection to the
19 form of the question.
20 THE WITNESS: So you are asking
21 other than the three you just listed
22 or including the three --
23 BY MR. FURMAN:
24 Q. Including the three.
25 A. -- you just listed?

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1 Sevier
2 Q. Yes.
3 We know that Mr. Bissonnette had
4 signed a nondisclosure agreement so I am
5 asking about any other author including
6 those three if you are aware that any of
7 them had signed a nondisclosure agreement of
8 some sort with the U.S. Government?
9 A. I have no specific knowledge of
10 what any of those three authors or any other
11 that I can think of signed or didn't sign.
12 Q. I am now going to just turn the
13 topic to people that work at Dutton. I will
14 ask you some questions about them.
15 Who is Christine Ball?
16 A. She is the currently the deputy
17 publisher for Putnam, Dutton and Berkeley
18 which are three imprints of Penguin.
19 Q. What involvement did Christine
20 Ball have with the book No Easy Day?
21 A. At that time she was the associate
22 publisher for Dutton in charge of publicity
23 and marketing.
24 Q. Was Ms. Ball involved in the
25 publicity and marketing of No Easy Day?

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1 Sevier
2 A. Yes.
3 Q. When did she first become involved
4 with the production of that book to the best
5 of your knowledge?
6 A. She wasn't involved in what I
7 would call the production of the book.
8 Q. When did she get involved in the
9 publicity and marketing of No Easy Day?
10 A. I couldn't give you a specific
11 date but it would have been -- it was
12 sometime in the first quarter of 2012.
13 Q. Was it after the first draft the
14 book was produced?
15 A. No.
16 Q. What efforts did she undertake to
17 publicize and market the book?
18 MS. FOLEY: Object to the form.
19 THE WITNESS: She helped lay out
20 the publicity and marketing strategy
21 and then it was her job to execute
22 that strategy.
23 She also participated in
24 conversations about when the book
25 would be published inasmuch as that

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1 Sevier
2 was important to the media and
3 publicity plan.
4 BY MR. FURMAN:
5 Q. Let me just follow up on that.
6 First let me take on the media and publicity
7 strategy.
8 When did she first lay out that
9 that media and publicity strategy to the
10 best of your knowledge? Obviously not a
11 specific date but just generally.
12 A. We began talking about it as I
13 said in the first quarter, sometime in the
14 first quarter of 2012 and those discussions
15 and strategies would have been a moving
16 target up to and in fact just after the
17 publication of the book in September.
18 Q. Could you describe to me what that
19 strategy was initially?
20 A. In the book business we want to
21 get as much attention for a book as
22 possible. So with any book publication we
23 are looking to get our author in front of as
24 many eyeballs in this country as possible
25 that means targeting the biggest possible

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<p style="text-align: right;">Page 33</p> <p>1 Sevier</p> <p>2 television programs that do interviews with</p> <p>3 authors, the biggest print publications, the</p> <p>4 radio stations and radio programs that can</p> <p>5 reach lots of listeners so we with this</p> <p>6 project had our sights set on the absolute</p> <p>7 top outlets across all media.</p> <p>8 Q. What was the hook as it relates to</p> <p>9 Mr. Bissonnette? What was going to get</p> <p>10 eyeballs on him and the book itself?</p> <p>11 A. He had a unique story to tell. He</p> <p>12 is an American hero who had a long career</p> <p>13 fighting for this country.</p> <p>14 He participated in one of the most</p> <p>15 historic military operations that I can</p> <p>16 remember and he in this book was going to</p> <p>17 give a firsthand account of that mission and</p> <p>18 that we felt was going to be something</p> <p>19 everybody in the country would want to talk</p> <p>20 to him about.</p> <p>21 Q. What do you recall Christine Ball</p> <p>22 telling you about what the strategy would</p> <p>23 have been at least initially? You mentioned</p> <p>24 getting eyeballs.</p> <p>25 A. Beyond what I just described?</p>	<p style="text-align: right;">Page 35</p> <p>1 Sevier</p> <p>2 MS. HIROSE: Objection. Do you</p> <p>3 mean the book?</p> <p>4 BY MR. FURMAN:</p> <p>5 Q. No. I am talking about Matt.</p> <p>6 A. I am not sure what you mean. Can</p> <p>7 you clarify?</p> <p>8 Q. I am going to ask the court</p> <p>9 reporter to read back your answer. I was</p> <p>10 following up on your answer.</p> <p>11 (Record read)</p> <p>12 MR. FURMAN: What was my last</p> <p>13 question?</p> <p>14 (Record read)</p> <p>15 THE WITNESS: Our hope was that</p> <p>16 those interviews would take place at</p> <p>17 publication on the day of our</p> <p>18 publication and in the weeks and</p> <p>19 months following.</p> <p>20 BY MR. FURMAN:</p> <p>21 Q. Was there a strategy to publicize</p> <p>22 the book before that date in place?</p> <p>23 A. No.</p> <p>24 Q. Did Dutton take any efforts to</p> <p>25 publicize No Easy Day before the book was</p>
<p style="text-align: right;">Page 34</p> <p>1 Sevier</p> <p>2 Q. Beyond what you described.</p> <p>3 A. I am going to need you to be more</p> <p>4 specific.</p> <p>5 Q. How -- what was the plan to</p> <p>6 execute that vision of getting as many</p> <p>7 eyeballs on Mr. Bissonnette as possible?</p> <p>8 MS. FOLEY: Object. Asked and</p> <p>9 answered.</p> <p>10 THE WITNESS: I feel like that</p> <p>11 is what I just said.</p> <p>12 Do you want me to clarify or do</p> <p>13 you have a specific question?</p> <p>14 BY MR. FURMAN:</p> <p>15 Q. Yes. You mentioned you wanted to</p> <p>16 get eyeballs. How would you do that?</p> <p>17 A. We would make Mark available --</p> <p>18 excuse me, Matt available to the media</p> <p>19 outlets I just described and as many of them</p> <p>20 as possible to tell his story firsthand and</p> <p>21 make the public aware that the complete</p> <p>22 story was available in our book.</p> <p>23 Q. When did that first take place,</p> <p>24 when was Matt first made available to the</p> <p>25 media outlets?</p>	<p style="text-align: right;">Page 36</p> <p>1 Sevier</p> <p>2 actually published?</p> <p>3 A. I don't know what you mean</p> <p>4 exactly. If what you are asking is were we</p> <p>5 strategizing for a publicity plan that we</p> <p>6 hoped to start on the day of publication or</p> <p>7 around the day of publication and were we</p> <p>8 taking steps to enact and execute that</p> <p>9 strategy, yes.</p> <p>10 If you are asking whether we</p> <p>11 publicized the book or in other words caused</p> <p>12 Matt to take any of the actions I described</p> <p>13 in the media before the publication of the</p> <p>14 book, then I have a different answer.</p> <p>15 Q. What is the different answer then?</p> <p>16 A. We were trying to set up</p> <p>17 interviews and in some cases the kind of</p> <p>18 media outlets I described earlier need time</p> <p>19 to produce an interview, edit an interview</p> <p>20 and get it together so that it can air,</p> <p>21 i.e., become public around the time we</p> <p>22 wanted it to which was at publication.</p> <p>23 So some steps were taken during</p> <p>24 the summer of 2012.</p> <p>25 Q. What steps were -- what were those</p>

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<p style="text-align: right;">Page 37</p> <p>1 Sevier</p> <p>2 steps?</p> <p>3 A. We spoke with one media outlet</p> <p>4 that I can recall to make them aware that we</p> <p>5 would be publishing this book and to offer</p> <p>6 them an opportunity to interview Matt.</p> <p>7 Q. What media outlet was that?</p> <p>8 A. 60 Minutes, television show on</p> <p>9 CBS.</p> <p>10 Q. Did you describe the contents of</p> <p>11 the book to 60 Minutes?</p> <p>12 MS. FOLEY: Objection to form.</p> <p>13 Were you part of the contact</p> <p>14 with 60 Minutes?</p> <p>15 THE WITNESS: Yes.</p> <p>16 BY MR. FURMAN:</p> <p>17 Q. I am assuming it was a producer at</p> <p>18 60 Minutes that you spoke to?</p> <p>19 A. It was a producer and an on air</p> <p>20 interviewer.</p> <p>21 Q. What were their names?</p> <p>22 A. I don't recall the producer's</p> <p>23 name.</p> <p>24 The interviewer we met with was</p> <p>25 named Scott Pelley.</p>	<p style="text-align: right;">Page 39</p> <p>1 Sevier</p> <p>2 A. You book publishers trying to pick</p> <p>3 an advantageous date when they think can get</p> <p>4 the kind of media coverage that I described</p> <p>5 earlier.</p> <p>6 There are many other factors that</p> <p>7 go into choosing a publication date</p> <p>8 including when the manuscript is ready, how</p> <p>9 long the production process takes, how many</p> <p>10 copies you are shipping and how long it is</p> <p>11 going to take to print and distribute the</p> <p>12 book; numerous other factors that I can't</p> <p>13 recall at the moment so all of those would</p> <p>14 have gone into our thinking.</p> <p>15 Q. What was your thing as it relates</p> <p>16 to No Easy day about the publication date?</p> <p>17 You described what you do generally?</p> <p>18 A. Yes.</p> <p>19 Q. Now I am talking about No Easy</p> <p>20 Day.</p> <p>21 A. Well, we wanted the book to be</p> <p>22 published in the fall season because that is</p> <p>23 the time when lots of people are buying</p> <p>24 books. 70 percent of books I have heard are</p> <p>25 sold in the U.S. during the fall season and</p>
<p style="text-align: right;">Page 38</p> <p>1 Sevier</p> <p>2 Q. What did you tell them about the</p> <p>3 book?</p> <p>4 A. I don't recall specifically what I</p> <p>5 told them.</p> <p>6 Q. What generally was described in</p> <p>7 that conversation?</p> <p>8 A. That Matt's book was going to be</p> <p>9 the first eyewitness account of the Osama</p> <p>10 bin Laden raid.</p> <p>11 Q. When did that conversation take</p> <p>12 place?</p> <p>13 A. I don't recall specifically. I</p> <p>14 suspect it was in the early summer of 2012.</p> <p>15 Q. Earlier you said that there was --</p> <p>16 that Christine Ball was involved in the</p> <p>17 marketing, media and publicity strategizing</p> <p>18 effort and also in discussions about when</p> <p>19 the book would be published. Correct?</p> <p>20 A. Yes.</p> <p>21 Q. I want to focus on when the book</p> <p>22 would be published. What was the strategy</p> <p>23 in terms of that date?</p> <p>24 A. Which date are you referring to?</p> <p>25 Q. Publication of No Easy day.</p>	<p style="text-align: right;">Page 40</p> <p>1 Sevier</p> <p>2 it will lead up to Christmas. So we felt</p> <p>3 this was a big book and we wanted it in the</p> <p>4 biggest selling season.</p> <p>5 September date that we initially</p> <p>6 selected seemed advantageous from a media</p> <p>7 publicity standpoint and from competition in</p> <p>8 the marketplace as far as we could tell.</p> <p>9 Q. Why?</p> <p>10 A. You look at the publicly available</p> <p>11 knowledge of what other books are being</p> <p>12 published and we try to pick a date on which</p> <p>13 there is not direct competition from a book</p> <p>14 exactly like the one we are publishing or</p> <p>15 another huge book that is going to suck up</p> <p>16 the media attention that we are hoping to</p> <p>17 get for our book.</p> <p>18 Q. You were aware that another author</p> <p>19 was planning a book about the operation</p> <p>20 Neptune and the killing of bin Laden at the</p> <p>21 same time, correct?</p> <p>22 A. We knew there was a journalist</p> <p>23 writing a journalist account.</p> <p>24 Q. Mark Bowden?</p> <p>25 A. Mark Bowden.</p>

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<p style="text-align: right;">Page 41</p> <p>1 Sevier</p> <p>2 Q. You were aware that Mark Bowden</p> <p>3 was shooting to publish a book in the fall,</p> <p>4 correct? I have e-mails to that effect so I</p> <p>5 think it is common knowledge.</p> <p>6 MS. FOLEY: Object to the form.</p> <p>7 And do you recall --</p> <p>8 THE WITNESS: I am trying to</p> <p>9 remember if I knew when -- exactly</p> <p>10 when that one was being published. I</p> <p>11 don't really recall what we knew about</p> <p>12 the pub date but I knew the book was</p> <p>13 coming.</p> <p>14 BY MR. FURMAN:</p> <p>15 Q. Okay. And so the direct</p> <p>16 competition that you described earlier was</p> <p>17 Mark Bowden's book that ultimately became</p> <p>18 the book called The Finish?</p> <p>19 MS. FOLEY: Object to the form.</p> <p>20 THE WITNESS: No. What I was</p> <p>21 describing earlier was generally</p> <p>22 speaking when you think you have the</p> <p>23 biggest book of the year you don't</p> <p>24 want to put it on sale on the same</p> <p>25 date as another publisher's book that</p>	<p style="text-align: right;">Page 43</p> <p>1 Sevier</p> <p>2 sales, the high season for book sales.</p> <p>3 A. Right.</p> <p>4 Q. Any other reason why September</p> <p>5 would have been advantageous for you and the</p> <p>6 author to publish the book in September?</p> <p>7 A. We were trying to ensure that his</p> <p>8 book would be the first eyewitness account</p> <p>9 of the raid because that was a selling point</p> <p>10 for us.</p> <p>11 Q. If it was the first -- let me just</p> <p>12 ask you about that answer.</p> <p>13 If it was the first eyewitness</p> <p>14 account, it had more value than it would</p> <p>15 have had if it was a second or third or</p> <p>16 fourth eyewitness account, fair to say?</p> <p>17 A. Yes. It was the first book that</p> <p>18 was an eyewitness account describing the</p> <p>19 mission that we felt we would have a better</p> <p>20 opportunity to get the kind of media</p> <p>21 attention we described earlier, I described</p> <p>22 earlier than if it had been, yes, a second,</p> <p>23 third or fourth to use your words.</p> <p>24 Q. The media attention has a</p> <p>25 correlation with book sales, right? You get</p>
<p style="text-align: right;">Page 42</p> <p>1 Sevier</p> <p>2 they think is going to be the biggest</p> <p>3 book of the year so that is what I was</p> <p>4 referring to earlier.</p> <p>5 If you are asking me about Mark</p> <p>6 Bowden, yes, I was aware that Bowden's</p> <p>7 book was coming out, it was a</p> <p>8 journalistic account based on</p> <p>9 interviews.</p> <p>10 It would have been advantageous</p> <p>11 to us to be out in front of it if we</p> <p>12 could be.</p> <p>13 BY MR. FURMAN:</p> <p>14 Q. Obviously it would have been</p> <p>15 advantageous to be -- for No Easy Day to be</p> <p>16 published before Mark Bowden's book The</p> <p>17 Finish, fair to say?</p> <p>18 A. I don't know that it was a</p> <p>19 significant factor but it was in our</p> <p>20 thinking.</p> <p>21 Q. Anything else about the publishing</p> <p>22 date that went into the strategy of</p> <p>23 releasing the book in September?</p> <p>24 You referenced being ahead of</p> <p>25 competition and you also referenced the book</p>	<p style="text-align: right;">Page 44</p> <p>1 Sevier</p> <p>2 media attention in order to drive book</p> <p>3 sales, fair to say?</p> <p>4 A. Generally speaking, yes.</p> <p>5 Q. Okay. And is there any magic</p> <p>6 about September other than what you</p> <p>7 described in terms of releasing the book,</p> <p>8 the fact that it is the high season and also</p> <p>9 the need to be -- the first book that</p> <p>10 describes the raid that culminated in the</p> <p>11 killing of Bin Laden?</p> <p>12 A. I can't think of any other magic</p> <p>13 about September to use your words.</p> <p>14 Q. I use the term "magic," you know,</p> <p>15 not for any purpose other than drawing</p> <p>16 attention to the month itself.</p> <p>17 For example, September 11 is a</p> <p>18 very sad anniversary but it is the</p> <p>19 anniversary of the terrorist attack on the</p> <p>20 Twin Towers in New York and the Pentagon and</p> <p>21 also the deaths of hundreds of people on a</p> <p>22 plane in Pennsylvania.</p> <p>23 Was there any interest on the part</p> <p>24 of Dutton to publish the book around the</p> <p>25 time of September 11th in order to gain</p>

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<p style="text-align: right;">Page 45</p> <p>1 Sevier</p> <p>2 media publicity?</p> <p>3 A. That was not a significant factor</p> <p>4 in our thinking.</p> <p>5 Q. Was it a factor at all in your</p> <p>6 thinking?</p> <p>7 A. Ultimately we looked at various</p> <p>8 publication dates for the book as we do with</p> <p>9 any book and ultimately September 11th was</p> <p>10 selected at the request of the author.</p> <p>11 Q. Did you have one opinion -- I am</p> <p>12 sorry. Strike.</p> <p>13 Did you have an opinion one way or</p> <p>14 another about the fact that the author</p> <p>15 wanted the book published on September 11 of</p> <p>16 2012, on the anniversary of the attack on</p> <p>17 America?</p> <p>18 A. Not particularly. What I can</p> <p>19 remember is that I wanted the book to be out</p> <p>20 in September if possible for the reasons I</p> <p>21 described earlier.</p> <p>22 Matt was most comfortable on</p> <p>23 September 11 which happens to be a Tuesday</p> <p>24 and books are always released on Tuesday and</p> <p>25 only typically released on Tuesday for</p>	<p style="text-align: right;">Page 47</p> <p>1 Sevier</p> <p>2 immediate run up to the election day because</p> <p>3 the media tends to be very focused on the</p> <p>4 election in the two to four weeks in a</p> <p>5 typical election year before an election</p> <p>6 we -- that would have been a factor in why</p> <p>7 we scheduled the book earlier in the fall as</p> <p>8 opposed to later in the fall and closer to</p> <p>9 Christmas.</p> <p>10 That is a generally accepted kind</p> <p>11 of strategy in any election year from</p> <p>12 publishers.</p> <p>13 Q. Did you think that No Easy Day had</p> <p>14 any political interest that would have</p> <p>15 coincided with the election?</p> <p>16 A. I don't remember that being a</p> <p>17 significant factor in my mind.</p> <p>18 Q. Let me go back to some -- I am</p> <p>19 kind of shifting around and I appreciate</p> <p>20 that you are following along with the</p> <p>21 questions.</p> <p>22 Who is Alex Gigante?</p> <p>23 A. He was Penguin counsel, in-house</p> <p>24 counsel at that time.</p> <p>25 Q. Did he have any involvement with</p>
<p style="text-align: right;">Page 46</p> <p>1 Sevier</p> <p>2 operations reasons so as I said it was not a</p> <p>3 significant factor in my thinking.</p> <p>4 Q. So in the fall of 2012 there was</p> <p>5 the Presidential election too as you recall,</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. And unlike the one that we just</p> <p>9 had, up at that point in time that was a</p> <p>10 hotly contested Presidential election to the</p> <p>11 best of your knowledge, correct?</p> <p>12 A. Sure. I don't really remember</p> <p>13 what -- yes, I remember the election. It</p> <p>14 was hotly contested. Frankly after all we</p> <p>15 have just been through in this country it</p> <p>16 seems like a long time ago.</p> <p>17 Q. Yes. That is why I prefaced the</p> <p>18 question the way I did.</p> <p>19 But if we could somehow forget</p> <p>20 that 2016 happened, putting yourself back</p> <p>21 into 2012 was there -- did the Presidential</p> <p>22 election factor into the decision to publish</p> <p>23 the book in September?</p> <p>24 A. Inasmuch as in any election year</p> <p>25 publishers tend to stay away from the</p>	<p style="text-align: right;">Page 48</p> <p>1 Sevier</p> <p>2 No Easy Day?</p> <p>3 A. Yes.</p> <p>4 Q. Let me -- I just want to -- off</p> <p>5 the record.</p> <p>6 (Discussion off the record)</p> <p>7 BY MR. FURMAN:</p> <p>8 Q. I might have asked you this</p> <p>9 question. I forget the answer. If I asked</p> <p>10 it already your lawyers can yell at me.</p> <p>11 What was Mr. Gigante's role in the</p> <p>12 book No Easy Day?</p> <p>13 A. He was the in-house counsel for</p> <p>14 Penguin at that time.</p> <p>15 Q. Did he take any active</p> <p>16 participation in the publication of No Easy</p> <p>17 Day?</p> <p>18 MS. FOLEY: I am going to object</p> <p>19 at this point and I am going to direct</p> <p>20 the witness not to reveal</p> <p>21 conversations or information imparted</p> <p>22 to him by counsel.</p> <p>23 THE WITNESS: Can you repeat the</p> <p>24 question?</p> <p>25 MR. FURMAN: I will have it read</p>

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1 Sevier
2 back. I don't think I can remember
3 it.
4 (Record read)
5 MS. FOLEY: If you can't answer
6 that without revealing conversations
7 with your attorney that's your answer.
8 THE WITNESS: Then, yes.
9 BY MR. FURMAN:
10 Q. He did take active participation?
11 MS. FOLEY: Are you saying you
12 can't answer it in response without
13 revealing conversations with your
14 attorney?
15 THE WITNESS: I am saying I
16 can't answer it without talking --
17 yes, I don't know that I can answer
18 that question. We can talk about
19 that --
20 MS. FOLEY: Why don't I take a
21 minute? Go off the record.
22 (Discussion off the record)
23 MR. FURMAN: All right. We had
24 a break.
25 Do you want to add anything to

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1 Sevier
2 the record based on the conversation
3 you just had with your client? Is
4 there anything that needs to be
5 clarified?
6 MS. FOLEY: No. I mean do you
7 want to -- is there an outstanding
8 question pending?
9 MR. FURMAN: Yes.
10 Can I just have the last
11 question read back?
12 (Record read)
13 MS. FOLEY: I am directing the
14 witness in terms of attorney-client
15 privilege not to discuss conversations
16 he had with his attorney, with
17 Dutton's attorney, about production of
18 the book.
19 BY MR. FURMAN:
20 Q. Okay. I would like to know what
21 you know about what Mr. Gigante did.
22 MS. FOLEY: If Mr. Gigante told
23 him what he did that is going into
24 privileged information. That is the
25 problem when you asked that question

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1 Sevier
2 you are asking him what did
3 Mr. Gigante tell him that he did.
4 MR. FURMAN: All right. So let
5 me try it a different way. I am not
6 trying to obtain confidential
7 information.
8 BY MR. FURMAN:
9 Q. Let me ask it a different way.
10 Prior to the publication of No
11 Easy Day to the best of your knowledge did
12 Dutton have any procedures in place to
13 ensure that authors didn't violate
14 nondisclosure agreements of any kind?
15 MS. FOLEY: Object to the form
16 of the question.
17 I think you can ask him that
18 question as far as what the editorial
19 process was.
20 MR. FURMAN: I am asking in his
21 role.
22 MS. FOLEY: In the editorial
23 process --
24 MR. FURMAN: That is understood.
25 MS. FOLEY: Not consultation

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1 Sevier
2 with attorneys. And you are trying to
3 get -- you keep going into what did
4 you ask your attorney.
5 MR. FURMAN: No. I am not
6 asking that. You have to forgive me.
7 I am pretty relaxed about
8 conversations on the record. You have
9 seen that so far but I am taking a
10 deposition. I feel that now you may
11 be intruding a bit.
12 MS. FOLEY: Well, no, I mean --
13 MR. FURMAN: So what I am asking
14 because I am asking the questions is
15 that I am asking Mr. Sevier's
16 knowledge about whether Dutton has in
17 place any procedures or policies to
18 ensure that authors don't violate
19 nondisclosure agreements. I am simply
20 asking that question.
21 MS. FOLEY: I am directing the
22 witness it to answer that to the
23 extent he can based on policies and
24 procedures set up by the editorial
25 group.

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<p style="text-align: right;">Page 53</p> <p>1 Sevier</p> <p>2 MR. FURMAN: Okay.</p> <p>3 BY MR. FURMAN:</p> <p>4 Q. You can answer that question.</p> <p>5 A. No.</p> <p>6 Q. Did Dutton prior to the</p> <p>7 publication of No Easy Day consult legal</p> <p>8 counsel, whether in-house or outside, in</p> <p>9 connection with the publication of a</p> <p>10 military book to ensure that there were no</p> <p>11 violations of nondisclosure agreements?</p> <p>12 MS. FOLEY: I am going to</p> <p>13 object. That calls for privileged</p> <p>14 information.</p> <p>15 I am going to direct the witness</p> <p>16 not to answer that question.</p> <p>17 MR. FURMAN: I am not asking for</p> <p>18 privileged information. I am asking</p> <p>19 if they consulted.</p> <p>20 MS. FOLEY: On the topic.</p> <p>21 MR. FURMAN: On the topic.</p> <p>22 MS. FOLEY: You have asked a</p> <p>23 specific to make sure that it doesn't</p> <p>24 contain classified information if I</p> <p>25 heard the question so you have gone</p>	<p style="text-align: right;">Page 55</p> <p>1 Sevier</p> <p>2 I had said to you if we want to talk</p> <p>3 off the record let's do that.</p> <p>4 MR. FURMAN: I don't see the</p> <p>5 benefit of that.</p> <p>6 What I am really would like to</p> <p>7 do because we are here to do that is I</p> <p>8 would like to ask questions that</p> <p>9 relate to this case and move on. So I</p> <p>10 like to try to do that.</p> <p>11 I appreciate your role and your</p> <p>12 concerns and I -- so I would say that</p> <p>13 in -- with respectful of that, of your</p> <p>14 role.</p> <p>15 BY MR. FURMAN:</p> <p>16 Q. Did Dutton retain outside legal</p> <p>17 counsel in connection with the publication</p> <p>18 of No Easy Day?</p> <p>19 MS. FOLEY: I am going to object</p> <p>20 and direct the witness not to answer.</p> <p>21 BY MR. FURMAN:</p> <p>22 Q. Did you obtain legal advice, I</p> <p>23 don't want to know what that advice was, did</p> <p>24 Dutton obtain legal advice with respect to</p> <p>25 the publication of No Easy Day?</p>
<p style="text-align: right;">Page 54</p> <p>1 Sevier</p> <p>2 into the contents of the</p> <p>3 communication.</p> <p>4 MR. FURMAN: I really have to</p> <p>5 respectfully disagree with what you</p> <p>6 are saying. I am not asking for the</p> <p>7 conversation. I am asking whether or</p> <p>8 not --</p> <p>9 MS. FOLEY: You are asking the</p> <p>10 topic of the conversation.</p> <p>11 And I am going to direct the</p> <p>12 witness not to answer and maybe to</p> <p>13 avoid conversations on the record you</p> <p>14 and I can talk about this later.</p> <p>15 MR. FURMAN: Yes. I mean I --</p> <p>16 let's do this because I am -- you</p> <p>17 know, I am mindful of the time that I</p> <p>18 have to take this deposition and</p> <p>19 speaking objections just generally are</p> <p>20 not permissible. You can object. You</p> <p>21 can direct the witness not to answer</p> <p>22 and then we will mark it for a ruling.</p> <p>23 I think that is the probably the best</p> <p>24 way to do it.</p> <p>25 MS. FOLEY: I agree. I agree.</p>	<p style="text-align: right;">Page 56</p> <p>1 Sevier</p> <p>2 MS. FOLEY: You can answer that</p> <p>3 question.</p> <p>4 THE WITNESS: Yes.</p> <p>5 BY MR. FURMAN:</p> <p>6 Q. Okay. From where?</p> <p>7 MS. FOLEY: To the extent you</p> <p>8 know you can answer that question.</p> <p>9 THE WITNESS: From our in-house</p> <p>10 legal counsel.</p> <p>11 BY MR. FURMAN:</p> <p>12 Q. Mr. Gigante?</p> <p>13 A. Yes.</p> <p>14 Q. Did you consider, you, not asking</p> <p>15 whether you discussed it with anyone else,</p> <p>16 did you consider whether or not you needed</p> <p>17 security clearance in order to discuss the</p> <p>18 contents of the book No Easy Day?</p> <p>19 A. No.</p> <p>20 Q. Did you discuss that with anyone?</p> <p>21 A. No.</p> <p>22 MS. FOLEY: Excluding counsel.</p> <p>23 BY MR. FURMAN:</p> <p>24 Q. In connection with any book</p> <p>25 including Red Platoon or any other military</p>

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57-60

<p style="text-align: right;">Page 57</p> <p>1 Sevier</p> <p>2 book, did any book that you work on ever go</p> <p>3 through a prepublication review process with</p> <p>4 the U.S. Government?</p> <p>5 A. Yes.</p> <p>6 Q. Which books?</p> <p>7 A. The second book by Mark Owen which</p> <p>8 is the pen name for Matt Bissonnette as you</p> <p>9 know, pseudonym for Matt, went through a</p> <p>10 legal -- security review.</p> <p>11 And Hunter Killer by T. Mark</p> <p>12 McCurley went through a security review.</p> <p>13 Q. Hunter Killer, that was published</p> <p>14 after No Easy Day?</p> <p>15 A. That's right.</p> <p>16 Q. Who assisted you if anyone in --</p> <p>17 let me take it back.</p> <p>18 Who assisted the author to the</p> <p>19 best of your knowledge with the</p> <p>20 prepublication review process for Hunter</p> <p>21 Killer?</p> <p>22 MS. FOLEY: To the extent you</p> <p>23 know.</p> <p>24 THE WITNESS: He had an attorney</p> <p>25 and that is -- as far as I know that</p>	<p style="text-align: right;">Page 59</p> <p>1 Sevier</p> <p>2 Q. When did you first consider that</p> <p>3 question?</p> <p>4 A. From the beginning. The moment I</p> <p>5 heard about the possibility of the book from</p> <p>6 the literary agent.</p> <p>7 Q. I want to follow through on that</p> <p>8 but I want to go chronologically on that.</p> <p>9 When did you first learn about the</p> <p>10 book No Easy Day or the idea of the book</p> <p>11 that became No Easy Day?</p> <p>12 A. I think it was late November of</p> <p>13 2011.</p> <p>14 Q. How did you first learn about it?</p> <p>15 A. I received a phone call from a</p> <p>16 literary agent named Elise Cheney.</p> <p>17 Q. Did you know Elise Cheney before</p> <p>18 she contacted you?</p> <p>19 A. Yes, I did.</p> <p>20 Q. How?</p> <p>21 A. She is a literary agent and I am</p> <p>22 an editor and publisher so I bought books</p> <p>23 from her in the past. We had done business</p> <p>24 together.</p> <p>25 Q. How did she contact you?</p>
<p style="text-align: right;">Page 58</p> <p>1 Sevier</p> <p>2 is my answer. That is all I can</p> <p>3 remember.</p> <p>4 BY MR. FURMAN:</p> <p>5 Q. We used the term "prepublication</p> <p>6 review process," and I want to understand</p> <p>7 what your knowledge of that is. What do you</p> <p>8 understand that to be?</p> <p>9 A. It can mean different things for</p> <p>10 different authors. It has to do with where</p> <p>11 they served, if we are talking about a</p> <p>12 military author or someone who has worked</p> <p>13 for any sensitive branch of the U.S.</p> <p>14 Government. Generic term security review</p> <p>15 the way I heard it used typically can mean</p> <p>16 any one of a number of government agencies</p> <p>17 who review manuscripts before publication</p> <p>18 for the former employees.</p> <p>19 Q. In connection with the book No</p> <p>20 Easy Day did you separate and apart from any</p> <p>21 conversation you had with anyone else, just</p> <p>22 want to know what you thought, did you</p> <p>23 consider whether the book needed to go</p> <p>24 through a prepublication review process?</p> <p>25 A. Yes. I considered the question.</p>	<p style="text-align: right;">Page 60</p> <p>1 Sevier</p> <p>2 A. I believe she called me.</p> <p>3 Q. What did she tell you when she</p> <p>4 called you?</p> <p>5 A. I don't remember her specific</p> <p>6 words but generally she said she had met</p> <p>7 with one of the Navy Seals who had been on</p> <p>8 the bin Laden raid and he was considering</p> <p>9 writing a book about it and did I think that</p> <p>10 was a good idea she asked me.</p> <p>11 Q. What did you respond?</p> <p>12 A. I said I think that would be a big</p> <p>13 book.</p> <p>14 Q. Anything else about the</p> <p>15 conversation that you recall?</p> <p>16 A. Not really.</p> <p>17 Q. Did you set up any meetings or any</p> <p>18 other action points after that discussion?</p> <p>19 A. I am sure I said I would call her</p> <p>20 back, that I was very interested in the --</p> <p>21 talking further about that book.</p> <p>22 Q. Is that your entire recollection</p> <p>23 of the conversation?</p> <p>24 A. Yes. Yes.</p> <p>25 Q. What was the next time you spoke</p>

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<p style="text-align: right;">Page 61</p> <p>1 Sevier</p> <p>2 to Elise Cheney about this topic?</p> <p>3 A. I don't remember specifically but</p> <p>4 it was very soon after. It could have been</p> <p>5 the same day, it could have been the next</p> <p>6 day.</p> <p>7 Q. You contacted her?</p> <p>8 A. Yes.</p> <p>9 Q. In what form, call, text, e-mail?</p> <p>10 A. I don't remember.</p> <p>11 Q. Would you text message with her at</p> <p>12 all? Did you have her phone number and text</p> <p>13 message with her?</p> <p>14 A. No. I would not have done that</p> <p>15 day, I would not have texted her.</p> <p>16 Q. Okay. To this day do you have her</p> <p>17 phone number and text message with her?</p> <p>18 A. I have her phone number. I can't</p> <p>19 recall if I have ever text messaged with</p> <p>20 her.</p> <p>21 Q. You obviously e-mailed with her</p> <p>22 over the course of time?</p> <p>23 A. Yes.</p> <p>24 Q. Just going back to the present</p> <p>25 time when was the last time you spoke to</p>	<p style="text-align: right;">Page 63</p> <p>1 Sevier</p> <p>2 A. She called to -- because she had</p> <p>3 heard -- can we step out about this briefly?</p> <p>4 Q. No.</p> <p>5 A. It is a privileged question, I</p> <p>6 think. I actually don't know.</p> <p>7 MS. FOLEY: He wants to consult</p> <p>8 for privilege. We will consult</p> <p>9 briefly.</p> <p>10 THE WITNESS: It will take 30</p> <p>11 seconds.</p> <p>12 BY MR. FURMAN:</p> <p>13 Q. I think I need to know a little</p> <p>14 bit more about what you are saying and why</p> <p>15 you are here and --</p> <p>16 A. I think I can do it.</p> <p>17 She had a -- she called with a</p> <p>18 question for me about the -- about this</p> <p>19 testimony and the status -- what I would</p> <p>20 be -- how I would be called here, what the</p> <p>21 label.</p> <p>22 MS. FOLEY: What you recall?</p> <p>23 THE WITNESS: What I would be</p> <p>24 called as I was testifying.</p> <p>25</p>
<p style="text-align: right;">Page 62</p> <p>1 Sevier</p> <p>2 Ms. Cheney?</p> <p>3 A. Sometime in the fall of last year.</p> <p>4 Q. You haven't spoken to Elise Cheney</p> <p>5 from the fall of last year up until the</p> <p>6 present time?</p> <p>7 A. No. I mean that is the last two</p> <p>8 weeks. I haven't spoken to her in 2017.</p> <p>9 I didn't speak to her while I was</p> <p>10 on Christmas break for the last two weeks of</p> <p>11 December. So sometime before December 16th</p> <p>12 of last year.</p> <p>13 Q. Did you talk about -- about this</p> <p>14 case with her?</p> <p>15 A. In our last conversation?</p> <p>16 Q. Sure.</p> <p>17 A. No.</p> <p>18 Q. When was the last time you spoke</p> <p>19 to her about this case. When I say "this</p> <p>20 case," Matthew Bissonnette's lawsuit against</p> <p>21 lawyers, that includes the New York case and</p> <p>22 this case in Indiana?</p> <p>23 A. It may have come up briefly at</p> <p>24 some point in the second half of last year.</p> <p>25 Q. What did you discuss?</p>	<p style="text-align: right;">Page 64</p> <p>1 Sevier</p> <p>2 BY MR. FURMAN:</p> <p>3 Q. Let me just say that your</p> <p>4 conversation with Elise Cheney, she is not a</p> <p>5 lawyer, is she?</p> <p>6 A. Not to my knowledge.</p> <p>7 Q. So and you are not a lawyer I take</p> <p>8 it?</p> <p>9 A. No.</p> <p>10 Q. So I will be asking you questions</p> <p>11 about your conversations with Elise Cheney.</p> <p>12 A. Yes.</p> <p>13 Q. What in that discussion in the</p> <p>14 fall of 2016 about this case, can you tell</p> <p>15 me what that conversation was?</p> <p>16 A. She wanted -- she had heard</p> <p>17 that -- really don't know how to answer this</p> <p>18 without talking about a conversation I had</p> <p>19 with my attorney but I will try.</p> <p>20 MS. FOLEY: Stick to</p> <p>21 information.</p> <p>22 BY MR. FURMAN:</p> <p>23 Q. What she said is not privileged.</p> <p>24 A. She said you should be appearing</p> <p>25 as an expert witness at this deposition and</p>

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<p style="text-align: right;">Page 65</p> <p>1 Sevier</p> <p>2 I don't understand why you are not.</p> <p>3 Q. Did she explain why you should be</p> <p>4 an expert witness in this case?</p> <p>5 A. Not really. I didn't particularly</p> <p>6 understand the term even and I am not sure</p> <p>7 she did.</p> <p>8 Q. What would you be testifying as an</p> <p>9 expert in?</p> <p>10 A. I don't know.</p> <p>11 Q. When was the last time -- let me</p> <p>12 go back in time. I will ask a general</p> <p>13 question.</p> <p>14 It is fair to say you had several</p> <p>15 conversations with Elise Cheney about this</p> <p>16 case over the past several years?</p> <p>17 A. Yes. That is fair to say.</p> <p>18 Q. Have you spoken to anyone from</p> <p>19 Mr. Johnston's law firm about this case?</p> <p>20 A. Yes.</p> <p>21 Q. When was the last time you had a</p> <p>22 discussion with Mr. Johnston's law firm?</p> <p>23 A. Yesterday.</p> <p>24 Q. Was it in person, on the phone,</p> <p>25 how did that take place?</p>	<p style="text-align: right;">Page 67</p> <p>1 Sevier</p> <p>2 guys talked to these guys.</p> <p>3 Q. What do you recall Mr. Johnston</p> <p>4 telling you or saying out loud?</p> <p>5 A. He talked about his style in the</p> <p>6 deposition, a little bit about his</p> <p>7 impressions of what your style were.</p> <p>8 Q. What did he say? I am so curious.</p> <p>9 A. About you, is that what you were</p> <p>10 asking?</p> <p>11 Q. I hope he said I am a nice guy.</p> <p>12 A. He did. He said he is a polite</p> <p>13 guy, he is not a fist pounder.</p> <p>14 MS. FOLEY: He said he is good</p> <p>15 looking.</p> <p>16 MR. FURMAN: I appreciate that.</p> <p>17 There is only one good looking</p> <p>18 guy here. That is this guy right</p> <p>19 here.</p> <p>20 Thank you. Gees, I am</p> <p>21 flattered. Thank you for putting it</p> <p>22 on the record.</p> <p>23 BY MR. FURMAN:</p> <p>24 Q. Other than Mr. Johnston's</p> <p>25 blindness, was there anything else that he</p>
<p style="text-align: right;">Page 66</p> <p>1 Sevier</p> <p>2 A. I met Mr. Johnston for the first</p> <p>3 time yesterday.</p> <p>4 Q. Before you met with Mr. Johnston</p> <p>5 had you spoken to him on the phone?</p> <p>6 A. Not that I can recall.</p> <p>7 Q. Had you spoken to him prior to</p> <p>8 yesterday? Did I just ask that question?</p> <p>9 A. Yesterday was the first time I can</p> <p>10 recall speaking to him in person or on the</p> <p>11 phone.</p> <p>12 Q. What did you discuss?</p> <p>13 A. We said hello, nice to meet you.</p> <p>14 We discussed generally what to expect today</p> <p>15 in terms of how a deposition works. Things</p> <p>16 like that.</p> <p>17 Q. Is that -- how long did that</p> <p>18 conversation take place?</p> <p>19 A. We were together for half an hour</p> <p>20 maybe.</p> <p>21 Q. So in that half an hour what did</p> <p>22 you discuss because you just related 20</p> <p>23 seconds of the conversation to me?</p> <p>24 A. To be honest I didn't say much. I</p> <p>25 sat in a room and had a sandwich and these</p>	<p style="text-align: right;">Page 68</p> <p>1 Sevier</p> <p>2 discussed about the case?</p> <p>3 A. Not that I can recall</p> <p>4 particularly. At least not directed to me.</p> <p>5 Q. If you can just tell me a rough</p> <p>6 number because I would imagine it would be a</p> <p>7 numerous conversation, how many</p> <p>8 conversations have you had with Liz Cheney</p> <p>9 about the lawsuit that Matthew Bissonnette</p> <p>10 has against his lawyers?</p> <p>11 A. It is hard to put a number on</p> <p>12 that. If I had to guess I would say a</p> <p>13 dozen. It has come up in maybe a dozen</p> <p>14 conversations over the last few years.</p> <p>15 Q. So in dozens of conversations</p> <p>16 in -- I take it that they were at least 10</p> <p>17 or 15 minutes long conversations? I am</p> <p>18 trying to get a sense of it.</p> <p>19 A. I don't remember how long the</p> <p>20 conversations were. I just want to clarify,</p> <p>21 I said about a dozen.</p> <p>22 Q. So I am wrong. I appreciate your</p> <p>23 correction.</p> <p>24 In the dozen or so conversations</p> <p>25 what do you recall about them, what was the</p>

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Page 69	Page 71
<p>1 Sevier</p> <p>2 conversation about?</p> <p>3 A. Just the general idea that Matt</p> <p>4 felt he had gotten bad legal advice and he</p> <p>5 was going to kind of sue his attorney, sort</p> <p>6 of general, that is frankly what she was</p> <p>7 mostly talking about.</p> <p>8 She expressed a fair amount of</p> <p>9 outrage over the last few years about the</p> <p>10 advice that Matt had gotten from his</p> <p>11 attorney, Podlaski, on those calls. I can't</p> <p>12 be more specific than that.</p> <p>13 Q. Fair to say that Ms. Cheney has a</p> <p>14 view that Matthew Bissonnette was wronged in</p> <p>15 some manner by my client?</p> <p>16 A. She expressed to me that she feels</p> <p>17 he got -- Matt got bad legal advice from</p> <p>18 Podlaski.</p> <p>19 Q. Okay. And what was your response</p> <p>20 to that?</p> <p>21 A. To Elise on those phone calls?</p> <p>22 Q. Right.</p> <p>23 A. I can't really recall. General</p> <p>24 support probably.</p> <p>25 Q. Do you have an opinion one way or</p>	<p>1 Sevier</p> <p>2 obviously not a lawyer.</p> <p>3 Do you have an opinion one way or</p> <p>4 the other about Mr. Podlaski's advice to and</p> <p>5 his legal work on behalf of Mr. Bissonnette?</p> <p>6 MS. FOLEY: Objection. Again,</p> <p>7 lacks foundation.</p> <p>8 THE WITNESS: Well, yes. Given</p> <p>9 that Podlaski was Mark's adviser --</p> <p>10 Matt's adviser and he got to a</p> <p>11 point -- Matt got to a point where he</p> <p>12 had to sign away all the proceeds of</p> <p>13 his book it sounds like he got bad</p> <p>14 advice.</p> <p>15 BY MR. FURMAN:</p> <p>16 Q. Beyond that, beyond what you just</p> <p>17 described do you have any other opinion</p> <p>18 about Mr. Podlaski and his representation of</p> <p>19 Mr. Bissonnette?</p> <p>20 A. Any other opinion? Not that comes</p> <p>21 to mind. If you want to be more specific.</p> <p>22 Q. It doesn't have to be opinion, any</p> <p>23 thoughts, any observations?</p> <p>24 A. No.</p> <p>25 Q. The reason I am asking that is</p>
Page 70	Page 72
<p>1 Sevier</p> <p>2 another about the legal advice that</p> <p>3 Mr. Bissonnette got in particular to the</p> <p>4 publication of No Easy Day?</p> <p>5 MS. FOLEY: Object to form.</p> <p>6 Lacks foundation.</p> <p>7 THE WITNESS: I am not a legal</p> <p>8 expert. I don't know with all the</p> <p>9 phone calls and conversations they had</p> <p>10 so I don't really know how to answer</p> <p>11 that.</p> <p>12 BY MR. FURMAN:</p> <p>13 Q. So you obviously were not in an</p> <p>14 attorney-client relationship with</p> <p>15 Mr. Podlaski, correct?</p> <p>16 A. I think that is right. This is</p> <p>17 the first time I have done this and I don't</p> <p>18 understand privilege.</p> <p>19 Q. There is a first time for</p> <p>20 everything but it is not the first time you</p> <p>21 are answering questions. If you are married</p> <p>22 you have answered questions.</p> <p>23 The question I am asking you is do</p> <p>24 you have an opinion one way or another, I am</p> <p>25 not asking for a legal opinion. You are</p>	<p>1 Sevier</p> <p>2 because it is a deposition and there may be</p> <p>3 a trial and what I would like to know at</p> <p>4 trial if you have any views one way or the</p> <p>5 other about the legal services that were</p> <p>6 provided by Mr. Podlaski so I don't want to</p> <p>7 be surprised at trial so I want to ask you</p> <p>8 if you have any?</p> <p>9 A. Yes. As I said I think he was</p> <p>10 supposed to steer Matt through this process</p> <p>11 in a way that would avoid the kind of</p> <p>12 problems that Matt ultimately ran into and</p> <p>13 that we all had to deal with around</p> <p>14 publication of this book and given the way</p> <p>15 it has gone for Matt over the last few years</p> <p>16 I think Podlaski screwed up.</p> <p>17 Q. Can you tell me how you believe</p> <p>18 "Mr. Podlaski screwed up" as you describe?</p> <p>19 MS. FOLEY: Object to the form</p> <p>20 of the question.</p> <p>21 THE WITNESS: Matt asked him</p> <p>22 whether he had to submit the</p> <p>23 manuscript for security review and</p> <p>24 Podlaski's advice was that no, he did</p> <p>25 not. That seems to not having been</p>

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<p style="text-align: right;">Page 73</p> <p>1 Sevier</p> <p>2 correct and that got Matt in a fair</p> <p>3 amount of hot water.</p> <p>4 BY MR. FURMAN:</p> <p>5 Q. Is there anything else?</p> <p>6 A. Not that comes to mind.</p> <p>7 Q. Do you know one way or the other</p> <p>8 whether Matt asked Mr. Podlaski if he had to</p> <p>9 submit the book for prepublication review?</p> <p>10 A. Yes. He asked him.</p> <p>11 Q. How do you know that?</p> <p>12 A. Matt told me.</p> <p>13 Q. Other than Matt telling you do you</p> <p>14 have any other knowledge about that?</p> <p>15 A. It was a part of all the</p> <p>16 conversations that we were having with Matt</p> <p>17 around the planning of the publication of</p> <p>18 the book so it was a topic we covered more</p> <p>19 than once but -- and I guess that is my</p> <p>20 answer.</p> <p>21 Q. Did you ever ask Mr. Podlaski</p> <p>22 whether the book needed to be submitted for</p> <p>23 a prepublication review?</p> <p>24 A. Did I ever ask him directly? I</p> <p>25 don't remember. I can't recall</p>	<p style="text-align: right;">Page 75</p> <p>1 Sevier</p> <p>2 Q. Verbally you had an arrangement of</p> <p>3 some sort, you made an offer, she made a</p> <p>4 counteroffer?</p> <p>5 A. And then we made an agreement.</p> <p>6 Q. What was -- tell me what the</p> <p>7 numbers were and what the terms were.</p> <p>8 A. My memory is that my first offer</p> <p>9 was \$800,000 for world rights which means</p> <p>10 the ability to publish the book in all</p> <p>11 languages all over the world.</p> <p>12 Her response was certainly that</p> <p>13 the first offer was not sufficient to secure</p> <p>14 the rights.</p> <p>15 I honestly can't remember if she</p> <p>16 put a number on what would be sufficient or</p> <p>17 if I just came back with a better offer but</p> <p>18 the second offer was a million dollars for</p> <p>19 the world rights to publish the book which</p> <p>20 she and Matt accepted.</p> <p>21 Q. When did that million dollar offer</p> <p>22 and acceptance take place generally?</p> <p>23 A. Generally it was within a couple</p> <p>24 days of that phone call, that first phone</p> <p>25 call.</p>
<p style="text-align: right;">Page 74</p> <p>1 Sevier</p> <p>2 specifically. It is possible.</p> <p>3 Q. Let's go back in time to November</p> <p>4 of 2011.</p> <p>5 A. Okay.</p> <p>6 Q. You got a call from Elise Cheney.</p> <p>7 She tells you about Mark Owen. I take it</p> <p>8 you didn't know who Matt Bissonnette was at</p> <p>9 the time?</p> <p>10 A. We didn't talk about any names</p> <p>11 there including Matt Bissonnette.</p> <p>12 Q. You said you called either that</p> <p>13 day or shortly after you called Elise Cheney</p> <p>14 back. What happened next?</p> <p>15 A. I made an offer for the rights to</p> <p>16 publish the book at some point. I can't say</p> <p>17 on which phone call that happened except I</p> <p>18 know it wasn't the first phone call we had</p> <p>19 and we negotiated a little bit, she made a</p> <p>20 counteroffer I think or at least she told me</p> <p>21 that my first offer was not sufficient so I</p> <p>22 made another offer, we made an agreement.</p> <p>23 Q. Was that agreement formulated in</p> <p>24 writing?</p> <p>25 A. Ultimately in a contract.</p>	<p style="text-align: right;">Page 76</p> <p>1 Sevier</p> <p>2 Q. So it was before or after</p> <p>3 Thanksgiving of 2011?</p> <p>4 A. I can't recall. My memory is it</p> <p>5 was after but I can't be certain of that.</p> <p>6 Q. Was it in December of 2011?</p> <p>7 A. Again I can't be certain that it</p> <p>8 wasn't the first week of December.</p> <p>9 Q. Was the offer and acceptance in</p> <p>10 exchange by e-mail or correspondence or</p> <p>11 anything that was documented?</p> <p>12 A. I can't recall.</p> <p>13 Q. Did you take notes on that?</p> <p>14 A. I can't recall.</p> <p>15 Q. How do you know it was a million</p> <p>16 dollars?</p> <p>17 A. Because I remember what I pay for</p> <p>18 books typically.</p> <p>19 Q. How do you know the first offer</p> <p>20 was \$800,000?</p> <p>21 A. Because again I remember</p> <p>22 especially when we are talking about a</p> <p>23 significant investment like this it is part</p> <p>24 of my general business practice to remember</p> <p>25 these things.</p>

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<p style="text-align: right;">Page 77</p> <p>1 Sevier</p> <p>2 Q. Do you formalize or document</p> <p>3 offers that are made?</p> <p>4 A. Sometimes.</p> <p>5 Q. Did you in this case?</p> <p>6 A. I can't recall.</p> <p>7 Q. If before you make an offer do you</p> <p>8 have to get authority from someone at Dutton</p> <p>9 to make that kind of substantial financial</p> <p>10 offer?</p> <p>11 A. Yes.</p> <p>12 Q. What information did you have</p> <p>13 about No Easy Day that -- at the time you</p> <p>14 made the offer?</p> <p>15 A. Essentially what I said earlier,</p> <p>16 that there was a former Navy Seal who had</p> <p>17 been on the raid to -- that killed bin Laden</p> <p>18 and he was going to write a first person</p> <p>19 account of the raid.</p> <p>20 Q. This was a verbal communication to</p> <p>21 you from Elise Cheney?</p> <p>22 A. Yes.</p> <p>23 Q. Did you do any due diligence to</p> <p>24 verify that this is accurate?</p> <p>25 A. At any time?</p>	<p style="text-align: right;">Page 79</p> <p>1 Sevier</p> <p>2 line of questioning or at a breaking</p> <p>3 point I would like a comfort break.</p> <p>4 MR. FURMAN: Of course. Do you</p> <p>5 want to do it now?</p> <p>6 MS. FOLEY: Sure. I don't want</p> <p>7 to interrupt your line.</p> <p>8 MR. FURMAN: No. No.</p> <p>9 MS. FOLEY: Okay.</p> <p>10 MR. FURMAN: I am easily</p> <p>11 interrupted as you know. Let's take a</p> <p>12 break.</p> <p>13 (Recess)</p> <p>14 MR. FURMAN: I forget the last</p> <p>15 question.</p> <p>16 (Record read)</p> <p>17 BY MR. FURMAN:</p> <p>18 Q. When did that meeting with</p> <p>19 Mr. Bissonnette take place?</p> <p>20 A. It was sometime in the last week</p> <p>21 or two before the Christmas break of 2011.</p> <p>22 Q. So it was in the first half of the</p> <p>23 month?</p> <p>24 A. First three weeks. I really can't</p> <p>25 remember exactly.</p>
<p style="text-align: right;">Page 78</p> <p>1 Sevier</p> <p>2 Q. At the time that you made an offer</p> <p>3 of \$800,000 this could have been a quack off</p> <p>4 the street, right?</p> <p>5 A. Believe me, I thought of that, but</p> <p>6 no, I accepted Elise at her word.</p> <p>7 Q. So based on a working relationship</p> <p>8 with Elise Cheney that you believe that this</p> <p>9 was a legitimate person claiming that he was</p> <p>10 on the raid?</p> <p>11 A. Exactly, yes. Elise and I had a</p> <p>12 long history together and I believed she was</p> <p>13 telling me the truth.</p> <p>14 Q. Was the offer contingent on any</p> <p>15 kind of verification of the author's bona</p> <p>16 fides?</p> <p>17 A. I can't recall whether I would</p> <p>18 have communicated any contingencies in this</p> <p>19 specific case but I know that I wanted to</p> <p>20 meet Matt and that that meeting would likely</p> <p>21 take place before any contract was</p> <p>22 formalized and signed and in fact the</p> <p>23 meeting did take place before the contract</p> <p>24 so that was the bona fides essentially.</p> <p>25 MS. FOLEY: When you finish this</p>	<p style="text-align: right;">Page 80</p> <p>1 Sevier</p> <p>2 Q. Before December 25th?</p> <p>3 A. Yes. Before Christmas.</p> <p>4 Q. Where did the meeting take place?</p> <p>5 A. At the Penguin offices.</p> <p>6 Q. Who was at the meeting?</p> <p>7 A. Matt and Elise came in and Matt</p> <p>8 first with me in my office and then I</p> <p>9 introduced Matt to my publisher, Brian Tart</p> <p>10 and to our associate publisher Christine</p> <p>11 Ball and we had a conversation in Brian's</p> <p>12 office and then they left.</p> <p>13 Q. How long did the meetings with</p> <p>14 Mr. Bissonnette take place from start to</p> <p>15 finish?</p> <p>16 A. My estimate would be two hours,</p> <p>17 maybe less.</p> <p>18 Q. What was discussed during those</p> <p>19 two hours?</p> <p>20 A. General introductions, what to</p> <p>21 expect from the publication process, sort of</p> <p>22 educating Matt on what a book publication</p> <p>23 looks like and how it would work, who we</p> <p>24 were, what we were planning to do a little</p> <p>25 bit.</p>

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<p style="text-align: right;">Page 81</p> <p>1 Sevier</p> <p>2 Matt telling his story who he was,</p> <p>3 what he wanted to write about, et cetera.</p> <p>4 Q. What did Matt tell you what he</p> <p>5 wanted to write about?</p> <p>6 A. He told us -- he told me that he</p> <p>7 wanted to write the true story of what</p> <p>8 happened on the bin Laden raid from the</p> <p>9 point of view of the guys on the ground.</p> <p>10 Q. Did he tell you why he wanted to</p> <p>11 tell the "true story"?</p> <p>12 A. I think he mentioned in that</p> <p>13 meeting that he was frustrated, some of</p> <p>14 those guys were frustrated that the -- I</p> <p>15 don't remember how he characterized it</p> <p>16 exactly but I remember it being like the</p> <p>17 politicians and the President and the</p> <p>18 commanders who didn't put themselves at risk</p> <p>19 were the ones who were telling the story and</p> <p>20 that bugged a lot of the guys and so he</p> <p>21 wanted to tell it from his point of view and</p> <p>22 their point of view.</p> <p>23 Q. Did Mr. Bissonnette say that it</p> <p>24 frustrated or as you described bugged him</p> <p>25 that politicians, the President, others were</p>	<p style="text-align: right;">Page 83</p> <p>1 Sevier</p> <p>2 (Record read)</p> <p>3 THE WITNESS: No. I didn't have</p> <p>4 any concern about that.</p> <p>5 BY MR. FURMAN:</p> <p>6 Q. I am going to use the term</p> <p>7 Operation Neptune Spear because I just don't</p> <p>8 like using that terrorist's name. Is that</p> <p>9 okay?</p> <p>10 A. Fine with me.</p> <p>11 Q. Did you have any discussion with</p> <p>12 Mr. Bissonnette at this meeting in December</p> <p>13 of 2011 about nondisclosure agreements that</p> <p>14 he may have signed?</p> <p>15 A. I don't recall if it came up in</p> <p>16 those meetings.</p> <p>17 Q. Did you have any discussion with</p> <p>18 him about the CIA's involvement in Operation</p> <p>19 Neptune Spear?</p> <p>20 A. I don't remember if that came up</p> <p>21 in the meeting -- in those meetings.</p> <p>22 Q. Did you have a discussion with</p> <p>23 Mr. Bissonnette about Catherine Bigelow and</p> <p>24 Mark Boal, B-O-A-L?</p> <p>25 A. At that meeting?</p>
<p style="text-align: right;">Page 82</p> <p>1 Sevier</p> <p>2 taking credit for the raid on -- that</p> <p>3 culminated the killing of bin Laden?</p> <p>4 A. Yes. Right. Yes. That is what I</p> <p>5 am saying. Yes.</p> <p>6 Q. Was it that -- did he express that</p> <p>7 he wanted the operators, when I say the term</p> <p>8 "operators," the people on the ground to get</p> <p>9 the credit for the successful mission?</p> <p>10 A. I don't know that he ever used the</p> <p>11 term "credit." I am really -- I am not sure</p> <p>12 that is how I would characterize it.</p> <p>13 I think he was frustrated that the</p> <p>14 guys that sacrificed, that was the word he</p> <p>15 used a lot, so much and put their lives on</p> <p>16 the line, sacrificed throughout their</p> <p>17 careers were not the ones telling the story</p> <p>18 of this historic moment.</p> <p>19 Q. Did you have any concern, you</p> <p>20 individually about learning information that</p> <p>21 was potentially classified about the raid</p> <p>22 that ultimately resulted in killing of bin</p> <p>23 Laden?</p> <p>24 MS. FOLEY: Can you read back</p> <p>25 the question please?</p>	<p style="text-align: right;">Page 84</p> <p>1 Sevier</p> <p>2 Q. Yes.</p> <p>3 A. I do not recall talking to them</p> <p>4 about either of those people.</p> <p>5 Q. There came point in time when you</p> <p>6 did discuss with Mr. Bissonnette Catherine</p> <p>7 Bigelow and Mark Boal, correct?</p> <p>8 A. Yes.</p> <p>9 Q. They were the producers of the</p> <p>10 movie that became Zero Dark Thirty?</p> <p>11 A. That is my memory.</p> <p>12 Q. Did you have a discussion with</p> <p>13 Mr. Bissonnette about Ms. Bigelow and</p> <p>14 Mr. Boal being present at Leon Panetta's</p> <p>15 retirement party?</p> <p>16 A. I remember having those</p> <p>17 conversations with Matt but I don't remember</p> <p>18 when they happened and I couldn't say it was</p> <p>19 at the meeting you are asking me about now.</p> <p>20 Q. I am now asking generally. I want</p> <p>21 to focus on the meeting again in a moment.</p> <p>22 I am now asking generally.</p> <p>23 A. Yes.</p> <p>24 Q. Did Mr. Bissonnette express to you</p> <p>25 any frustration with the fact that the</p>

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85-88

Page 85

1 Sevier
2 producers of Zero Dark Thirty were present
3 at a function for the outgoing head of the
4 CIA?
5 A. Yes.
6 Q. What did he tell you about that?
7 A. I remember him telling me he
8 thought it was silly. My word. My
9 impression of his feeling was that he
10 thought they shouldn't have been there.
11 That Panetta's involvement with those guys
12 and the government's involvement with those
13 guys was inconsistent with the way -- with
14 their posturing around his book and with
15 their behavior around him.
16 Q. Did Mr. -- well, let me just
17 unpack that a bit.
18 Did Mr. Bissonnette express to you
19 any opinions or views on the fact that the
20 CIA was allowing Mark Boal and Catherine
21 Bigelow access to information about
22 operation Neptune Spear?
23 A. At any point?
24 Q. At any point.
25 A. Yes. We had conversations about

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1 Sevier
2 it. I can't remember the specifics of what
3 he said about it except that I remember him
4 holding it up as an example of inconsistent
5 positions from the U.S. Government on who
6 was allowed to talk about this raid.
7 Q. When you say "inconsistent
8 positions" I want to understand what you
9 mean by that. Meaning that certain people
10 could talk about the raid and certain people
11 couldn't?
12 A. Right.
13 Q. We are talking about firsthand
14 accounts of what took place, is that what
15 you are describing?
16 A. No. Not necessarily. Details
17 of -- the details of the raid.
18 Q. Details of Operation Neptune
19 Spear, when we talk about the raid I want to
20 make sure we define it correctly. You mean
21 details of Operation Neptune Spear?
22 A. I don't know what Operation
23 Neptune Spear refers to in total so I have a
24 hard time answering that. I know what the
25 raid is. I know the raid was at least a

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1 Sevier
2 part of operation Neptune Spear. But I don't
3 know -- I know that the hunt for the
4 terrorists whose name you don't want to use
5 and I won't use --
6 Q. That is fair.
7 A. -- took many years. And I don't
8 actually sitting here today, was that all
9 called Operation Neptune Spear, I don't
10 know.
11 Q. That is a very fair point. So
12 let's call it the raid.
13 A. Okay.
14 Q. We can refer to it as the
15 Operation Neptune Spear raid.
16 A. Okay.
17 Q. We will call it the raid. And if
18 there is any confusion about it you let me
19 know. We are all talking about the raid
20 that ended in the culmination of the killing
21 of Osama bin Laden in Abbottabad and I think
22 in 2010, when was that?
23 In any event, was the
24 inconsistency about the information that was
25 being divulged to the public about the raid

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1 Sevier
2 from the politicians versus the operations
3 on the ground, was that the tension and the
4 issue that Mr. Bissonnette was describing to
5 you?
6 A. Yes. I can remember him
7 expressing those kinds of feelings.
8 Q. Now, going back now to the
9 December meeting was there any discussion
10 about whether it was appropriate in one way
11 or another for Mr. Bissonnette to tell the
12 story and divulge details about the raid?
13 A. No. We didn't discuss whether it
14 was appropriate.
15 Q. Did you have any concern or
16 thoughts about whether it would be
17 appropriate for an operator such as Matthew
18 Bissonnette to write a book about the raid?
19 A. Can you explain your use of the
20 word "appropriate"?
21 Q. I am using it in the most general
22 terms. Whether the government could make
23 any objection in any form about
24 Mr. Bissonnette writing a book about the
25 raid?

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BISSONNETTE vs PODLASKI

January 06, 2017
89-92

<p style="text-align: right;">Page 89</p> <p>1 Sevier</p> <p>2 A. I was concerned from the beginning</p> <p>3 about whether he had the legal right to tell</p> <p>4 the story but not whether it was more</p> <p>5 generally appropriate for him to be telling</p> <p>6 the story.</p> <p>7 Q. Okay. So when I use the word</p> <p>8 "appropriate" I don't mean it in sort of</p> <p>9 the, you know, Good Housekeeping Seal of</p> <p>10 Approval. And whether it is okay in Peoria.</p> <p>11 What I mean is whether it is</p> <p>12 appropriate from any kind of governmental</p> <p>13 perspective. I mean that very generally,</p> <p>14 governmental perspective, whether it would</p> <p>15 be appropriate for a military operator to</p> <p>16 write a book about a raid that he took place</p> <p>17 in -- that he took part in.</p> <p>18 You mentioned that you were</p> <p>19 concerned about whether he had some legal</p> <p>20 issues with that, is that -- do I understand</p> <p>21 your testimony?</p> <p>22 MS. FOLEY: Object to the form</p> <p>23 of the question. Mischaracterizes it.</p> <p>24 BY MR. FURMAN:</p> <p>25 Q. What was your concern so I can ask</p>	<p style="text-align: right;">Page 91</p> <p>1 Sevier</p> <p>2 the raid?</p> <p>3 A. He gave us a description of what</p> <p>4 he did on that day and sort of generally the</p> <p>5 highlights of the raid.</p> <p>6 Q. Did he -- did Mr. Bissonnette say</p> <p>7 that what I am going to tell you is</p> <p>8 confidential or did he express any need for</p> <p>9 confidentiality or secrecy in terms of what</p> <p>10 he was telling you at the time?</p> <p>11 A. I don't remember anything he might</p> <p>12 have said to that effect to us.</p> <p>13 Q. Did Mr. Bissonnette tell you that</p> <p>14 he was concerned about his name being used</p> <p>15 or the need -- and/or the need for secrecy</p> <p>16 involving his participation in the book?</p> <p>17 A. Again, I can't remember if it was</p> <p>18 at that meeting but, yes, around that time</p> <p>19 we were having conversations with Matt and</p> <p>20 with Elise about the fact that his identity</p> <p>21 would need to be kept completely</p> <p>22 confidential throughout the publication</p> <p>23 process.</p> <p>24 Q. I asked you earlier, I know you</p> <p>25 had met with Mr. Johnston yesterday but in</p>
<p style="text-align: right;">Page 90</p> <p>1 Sevier</p> <p>2 the better question?</p> <p>3 A. My concern was whether he was</p> <p>4 legally allowed to write the book that he</p> <p>5 was offering us.</p> <p>6 Q. What did you do about that</p> <p>7 concern?</p> <p>8 A. I asked him and his</p> <p>9 representatives whether he did have that</p> <p>10 right.</p> <p>11 Q. What did they tell you?</p> <p>12 A. That he thought he did. He wasn't</p> <p>13 sure and he would need advice on that</p> <p>14 question.</p> <p>15 Q. From a publisher's perspective did</p> <p>16 you do anything to address that concern you</p> <p>17 had other than rely on Mr. Bissonnette to</p> <p>18 obtain legal advice?</p> <p>19 A. Yes. We required him to hire an</p> <p>20 attorney to advise him. We wanted to make</p> <p>21 sure he was asking for that advice he said</p> <p>22 he needed.</p> <p>23 Q. At the time that you met with</p> <p>24 Mr. Bissonnette in December what details did</p> <p>25 he tell you and Mr. Tart and Ms. Ball about</p>	<p style="text-align: right;">Page 92</p> <p>1 Sevier</p> <p>2 getting ready for today's deposition did you</p> <p>3 review e-mails and other documents that</p> <p>4 related to the book No Easy Day?</p> <p>5 A. Yes.</p> <p>6 Q. When did you do that?</p> <p>7 A. In preparing for today?</p> <p>8 Q. Yes.</p> <p>9 A. Really over the last two days.</p> <p>10 Q. How many hours did you spend doing</p> <p>11 that?</p> <p>12 A. In total maybe three, four.</p> <p>13 Q. Do you recall an e-mail exchange</p> <p>14 with Elise Cheney about your initial meeting</p> <p>15 with Mr. Bissonnette?</p> <p>16 MS. FOLEY: Are you asking does</p> <p>17 he recall it now?</p> <p>18 BY MR. FURMAN:</p> <p>19 Q. Do you recall it?</p> <p>20 A. Not specifically.</p> <p>21 Q. I am going to show you what has</p> <p>22 been previously marked as Exhibit 4 in</p> <p>23 Mr. Bissonnette's deposition.</p> <p>24 We will give copies to everybody.</p> <p>25 This has already been previously marked.</p>

BENJAMIN SEVIER
BISSONNETTE vs PODLASKI

January 06, 2017
93-96

Page 93

1 Sevier
2 So have you had a chance to review
3 that Exhibit 4?
4 A. Yes.
5 Q. Never mind that the name up on top
6 of -- the name on top is just one of my
7 legal assistants when we print out e-mails
8 on Outlook it has the name of the user on
9 top.
10 A. Understood.
11 Q. Julie has absolutely no
12 involvement whatsoever in this case of the
13 printing.
14 Does this refresh your
15 recollection as to when that meeting took
16 place?
17 A. Yes. It looks like it must have
18 been on or before December 20.
19 Q. Who was preparing the contract
20 that was referenced?
21 A. The Penguin contracts department.
22 Q. Before -- let me just ask you.
23 What prompted you to send this e-mail?
24 A. I can't remember specifically.
25 Q. Normally when -- normally, in the

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1 Sevier
2 ordinary course of publishing a book when do
3 you first start to tell the media about the
4 book itself? What is the general process?
5 Is it before the --
6 A. For a typical book, conversations
7 with the media begin, let's say, six months
8 before the publication date. Generally.
9 Q. When did you first start having
10 conversations with the media about No Easy
11 Day?
12 A. The first conversation that I ever
13 had with the media was to my knowledge or my
14 memory anyway is with the 60 Minutes team
15 that I mentioned earlier at their offices
16 which I think was sort of around the
17 beginning of the summer.
18 Q. That is not six months before the
19 publication so why was this book handled
20 differently?
21 A. Because we wanted to control what
22 we thought was going to be a big story and
23 we didn't want the media knowing about it
24 before it was advantageous to us to tell
25 them.

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1 Sevier
2 Q. So is it fair to say that the
3 production of the book was being kept quiet
4 or confidential or secret in order to avoid
5 public knowledge about Mr. Bissonnette's
6 involvement in the book?
7 A. Yes. That is fair to say. I
8 would say it was just about the book's
9 publication in general.
10 Q. Was there, other than -- a new
11 question.
12 Did Mr. Bissonnette describe to
13 you any need for secrecy about his
14 involvement in the book at any point in
15 time?
16 A. As I think I said earlier, he was
17 concerned about his name being kept
18 confidential.
19 Q. Was he concerned about any
20 government officials or military supervisors
21 or commanders being made aware that he was
22 writing a book?
23 A. I don't know what he was concerned
24 about.
25 Q. Did he express it to you is what I

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1 Sevier
2 am asking.
3 A. Yes, I don't. I can't remember a
4 specific instance where he expressed that
5 concern.
6 Q. Did you meet with Matt Bissonnette
7 again after that December meeting?
8 A. Yes.
9 Q. When?
10 A. The next time I think was in
11 January of 2012.
12 Q. Was that in New York?
13 A. No.
14 Q. Where was that?
15 A. Washington, D.C.
16 Q. How did that meeting take place?
17 How did it come about?
18 A. We scheduled it so that we could
19 talk further about what would be in the
20 book, about how the book would be structured
21 and put together.
22 Q. Did Elise Cheney arrange the
23 meeting?
24 A. She was a part of arranging the
25 meeting. I don't recall who took the lead.

BENJAMIN SEVIER
BISSONNETTE vs PODLASKI

January 06, 2017
97-100

Page 97

1 Sevier

2 Q. Who took the lead?

3 A. I just said I don't recall.

4 Q. Oh, you don't recall. Who was at

5 the meeting?

6 A. I was there, Elise was there, Matt

7 was there and Kevin Mauer was there.

8 Q. How did Kevin Mauer come into the

9 picture?

10 A. He was hired as Matt's co-writer

11 on the book.

12 Q. Who made that decision to hire

13 Kevin Mauer?

14 A. Ultimately Matt selected him.

15 Q. Were you involved in that

16 decision-making process?

17 A. Yes.

18 Q. How?

19 A. Elise and I researched and found a

20 handful of candidates. I think it was

21 three, who we thought would be appropriate

22 and worth introducing to Matt as possible

23 co-writers and Kevin was one of them.

24 Q. Did Kevin Mauer have prior

25 experience in writing military books?

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1 Sevier

2 A. Yes, he did.

3 Q. Did you have a discussion with

4 Kevin Mauer before he was retained to be the

5 co-author? This is apart from the meeting

6 in Washington.

7 A. Right.

8 Before -- did I speak with him --

9 sorry.

10 Is the question did I speak with

11 him before the meeting?

12 Q. Correct. Yes.

13 A. Yes.

14 Q. What was that discussion?

15 A. I -- my memory is that I described

16 to him what the job was that he was being

17 considered for before he met with Matt so

18 that Matt could interview him.

19 Q. What did you describe? What was

20 the description of what he would be doing?

21 A. You know working with Matt to put

22 his memories down on paper and doing a

23 traditional job that a co-writer does with

24 someone like Matt who has never written a

25 book before so we talked about the mechanics

Page 99

1 Sevier

2 of what the job would entail, what kind of a

3 guy Matt was, inasmuch as that was important

4 for him to know about whether he wanted the

5 job, what -- you know, what our goals were

6 for what the book would be.

7 Q. Did you discuss with Mr. Mauer any

8 of the potential objections that the

9 government would have to the book being

10 published?

11 A. I don't remember discussing that

12 with him.

13 Q. Did you discuss with Mr. Mauer

14 whether he had any kind of security

15 clearance that would have allowed him to

16 obtain information that related to the raid?

17 A. No.

18 Q. Did Mr. Mauer express to you any

19 concern about governmental clearance?

20 A. Not that I remember.

21 Q. Did discussion come up with

22 Mr. Mauer about any need for a

23 prepublication review of the book before it

24 is published?

25 A. I just don't remember.

Page 100

1 Sevier

2 Q. To the best of your knowledge up

3 until that point there was no firsthand

4 account published about the raid, correct?

5 A. Right.

6 Q. And the information in the media

7 about the Operation Neptune raid was all

8 secondhand accounts through authors or

9 writers, correct?

10 A. Journalists, talking heads on TV,

11 et cetera.

12 Q. You are aware that there was a

13 very lengthy account of the raid that was

14 published through The New Yorker?

15 A. Yes. I am aware of that.

16 Q. Did you read that before meeting

17 with Mr. Bissonnette in December of 2011?

18 A. I read that when it was published

19 or around the time it was published but

20 honestly sitting here today I can't remember

21 when that was, whether it was before or

22 after I met Matt.

23 Q. Did you have any concerns about

24 whether the CIA or the White House or any

25 governmental agency would object to

BENJAMIN SEVIER
BISSONNETTE vs PODLASKI

January 06, 2017
101-104

Page 101

1 Sevier
2 Mr. Bissonnette writing the book at any
3 point in time?
4 MS. FOLEY: Can you just read
5 that back?
6 THE WITNESS: Can I take a
7 comfort break?
8 MR. FURMAN: Yes.
9 (Recess)
10 MR. FURMAN: Let's have the
11 question read back.
12 (Record read)
13 MS. FOLEY: Object to the
14 question. Asked and answered.
15 THE WITNESS: I feel like I have
16 answered that.
17 I was concerned from the
18 beginning that he had -- whether he
19 had the legal right to tell the story.
20 BY MR. FURMAN:
21 Q. Did Kevin Mauer -- did you discuss
22 that with Kevin Mauer at any point?
23 A. I might have, I just don't
24 remember.
25 Q. Let me show you what has been

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1 Sevier
2 marked previously as Exhibit 9 to -- Exhibit
3 9 in this case.
4 Do you recall this e-mail?
5 A. I don't specifically recall it but
6 it looks -- but I see what it is.
7 Q. Is that an aggressive schedule
8 start to finish?
9 A. Yes.
10 Q. Why was the schedule so
11 aggressive?
12 A. Because we wanted the book to be
13 the first eyewitness account of the UBL raid
14 and so we had been thinking of publishing it
15 in that September and in order to publish in
16 September we needed an aggressive schedule
17 like this.
18 Q. Using this, the date of this
19 e-mail, January 3rd as a marker, did you
20 have your second meeting with
21 Mr. Bissonnette in Washington before or
22 after?
23 A. After January 3rd.
24 Q. You described it as a -- I am not
25 sure if you did. How long was meeting?

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1 Sevier
2 A. In Washington, D.C.?
3 Q. In D.C.
4 A. Between a half day and a day. I
5 went up and back on the train in the same
6 day.
7 Q. So it was a several hour meeting?
8 A. Yes.
9 Q. What was discussed during that
10 meeting?
11 A. The outline for the book which is
12 to say Chapter 1, Chapter 2, Chapter 3 what
13 would be contained in those chapters
14 generally.
15 Maybe a bit about publication
16 although it was primarily focused primarily
17 about the co-writer, Kevin Mauer, Matt,
18 Elise and I agreeing on what would be in the
19 pages of the book, how the book would be
20 laid out, how the story would be told.
21 Q. The participants in the meeting
22 were you, Mr. Bissonnette, Elise Cheney and
23 Mr. Mauer?
24 A. That's right.
25 Q. Where did the meeting take place?

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1 Sevier
2 A. In a hotel conference room in
3 Washington, D.C.
4 Q. Fair to say at least a five-hour
5 meeting or --
6 A. Yes, approximately five hours
7 between four and eight I would say. I can't
8 be more specific.
9 Q. Were the contents of what
10 eventually became the book No Easy Day,
11 were -- was that the topic of discussion?
12 A. Yes.
13 Q. During that conversation did
14 Mr. Bissonnette reveal to you details about
15 the bin Laden raid?
16 A. On that day in that conference
17 room I can't remember what details came up.
18 As I said it was really about outlining
19 which is to say Chapter 1 we will talk about
20 Matt's birth and high school years and in
21 Chapter 20 we want to get to the raid. How
22 are we going to fill all those other
23 chapters. So it was a high level editorial
24 conversation for the most part. We could
25 have gotten in the detail but I don't recall

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BISSONNETTE vs PODLASKI

January 06, 2017
105-108

<p style="text-align: right;">Page 105</p> <p>1 Sevier</p> <p>2 it now.</p> <p>3 Q. Just in terms of describing it so</p> <p>4 I understand what the meeting -- what</p> <p>5 happened at the meeting, it was an outline</p> <p>6 of what would eventually contain the content</p> <p>7 of the book, is that fair to say?</p> <p>8 A. Yes.</p> <p>9 Q. At what point in time were you</p> <p>10 satisfied that Mr. Bissonnette was the real</p> <p>11 deal, that he was actually not -- he wasn't</p> <p>12 pretending that he was a Navy Seal and was</p> <p>13 involved in the raid?</p> <p>14 A. I was satisfied with that in the</p> <p>15 meeting we had in Penguin's offices in</p> <p>16 late -- mid to late December that we talked</p> <p>17 about earlier.</p> <p>18 Q. What about -- what did</p> <p>19 Mr. Bissonnette say or do that convinced</p> <p>20 you?</p> <p>21 A. It was just a feeling the way he</p> <p>22 talked, the stories he told. It was clear</p> <p>23 he came from that world and, you know, you</p> <p>24 get a gut feeling about someone.</p> <p>25 Q. Did he tell you any details about</p>	<p style="text-align: right;">Page 107</p> <p>1 Sevier</p> <p>2 any photographs, any documents, anything</p> <p>3 else?</p> <p>4 A. Not that I remember.</p> <p>5 Q. So it was just a hat that he</p> <p>6 showed you?</p> <p>7 A. In that December 20th meeting or</p> <p>8 whatever the date of that meeting was the</p> <p>9 only thing I remember is that hat.</p> <p>10 Q. Just give me a visual description</p> <p>11 so I can, you know, somehow understand what</p> <p>12 that hat looked like.</p> <p>13 A. You can see it. It is on video</p> <p>14 with bin Laden wearing it or a hat like it.</p> <p>15 I can't say that it was the hat that bin</p> <p>16 Laden was wearing. That is what Matt said</p> <p>17 and I believed him because he seemed like he</p> <p>18 was the real deal as I said.</p> <p>19 But it was like a brown stocking</p> <p>20 cap with kind of a flat top that is an</p> <p>21 unusual style at least here but that I think</p> <p>22 we were familiar with at the time just being</p> <p>23 the kind of hat that you would see in the</p> <p>24 Middle East and that bin Laden had been</p> <p>25 seeing wearing it on some of those videos</p>
<p style="text-align: right;">Page 106</p> <p>1 Sevier</p> <p>2 the raid itself that made you believe that</p> <p>3 he participated in the raid?</p> <p>4 A. I don't remember any specific</p> <p>5 details that he told us that were</p> <p>6 particularly relevant to that question. It</p> <p>7 was more a general overall impression of the</p> <p>8 breadth of his knowledge of it and his world</p> <p>9 that was convincing.</p> <p>10 Q. Did he show you anything?</p> <p>11 A. Did he show us anything? Yes. He</p> <p>12 did.</p> <p>13 Q. What did he show you?</p> <p>14 A. He had a hat.</p> <p>15 Q. Okay.</p> <p>16 A. That --</p> <p>17 Q. I have a hat too. Tell me about</p> <p>18 his hat.</p> <p>19 A. He said the hat was UBL's hat that</p> <p>20 he had gotten on the raid.</p> <p>21 Q. So he -- Mr. Bissonnette in this</p> <p>22 December meeting produced a hat and told you</p> <p>23 that this was Osama bin Laden's hat?</p> <p>24 A. Yes.</p> <p>25 Q. Anything else. Did he show you</p>	<p style="text-align: right;">Page 108</p> <p>1 Sevier</p> <p>2 that used to come out featuring him.</p> <p>3 Q. Did Mr. Bissonnette describe to</p> <p>4 you how he came into possession of the hat?</p> <p>5 A. He said he grabbed it on the raid,</p> <p>6 brought it home with him.</p> <p>7 Q. I just want to know your view, did</p> <p>8 you think it was strange that</p> <p>9 Mr. Bissonnette would actually have in his</p> <p>10 possession an article from such an historic</p> <p>11 raid in his possession?</p> <p>12 A. I didn't have any particular</p> <p>13 opinion about that. I meet all kinds of</p> <p>14 people in my line of work.</p> <p>15 Q. Do you know whatever happened to</p> <p>16 that hat?</p> <p>17 A. I have no idea.</p> <p>18 Q. How about the discussion about</p> <p>19 proceeds of the book going to a charity?</p> <p>20 When did that first take place?</p> <p>21 A. Very early in the conversations I</p> <p>22 was having with Matt.</p> <p>23 Q. What about that do you recall?</p> <p>24 A. He said he was hoping to donate</p> <p>25 the proceeds to charities that supported</p>

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BISSONNETTE vs PODLASKI

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109-112

<p style="text-align: right;">Page 109</p> <p>1 Sevier</p> <p>2 veterans interests, that is sort of</p> <p>3 generally what I remember.</p> <p>4 Q. How was that going to take place,</p> <p>5 what was the process for that to happen?</p> <p>6 A. I don't know. That was his --</p> <p>7 that would have been his responsibility.</p> <p>8 Q. Did Dutton take any interest or</p> <p>9 any active role in supporting that idea?</p> <p>10 A. Not that I can remember beyond</p> <p>11 printing his words in the book where he said</p> <p>12 that was his intent.</p> <p>13 Q. Did Dutton create a special</p> <p>14 account for any kind of charitable</p> <p>15 enterprise that relates to the book?</p> <p>16 A. No. Not that I know of.</p> <p>17 Q. To your knowledge has</p> <p>18 Mr. Bissonnette made any charitable</p> <p>19 contributions to any causes that you are</p> <p>20 aware of?</p> <p>21 A. In his life or --</p> <p>22 Q. In relation to the proceeds of the</p> <p>23 book or in relation to his role as an</p> <p>24 operator in the raid.</p> <p>25 A. The only thing I know about it is</p>	<p style="text-align: right;">Page 111</p> <p>1 Sevier</p> <p>2 The proceeds that can be</p> <p>3 interpreted as 100 percent. I am not -- did</p> <p>4 you understand Mr. Bissonnette wanted to</p> <p>5 donate 100 percent of the proceeds to</p> <p>6 charity?</p> <p>7 A. I mean at various -- that was my</p> <p>8 general understanding. That was my general</p> <p>9 understanding.</p> <p>10 There might have been some</p> <p>11 discussion at some point that he incurred</p> <p>12 expenses related to his work on the book but</p> <p>13 again that was really all his domain and it</p> <p>14 had to do with monies paid out to him from</p> <p>15 Penguin and Dutton and I wouldn't have had</p> <p>16 any hand in that so I didn't focus too much</p> <p>17 on that.</p> <p>18 Q. I -- we have been doing this so</p> <p>19 far. Keep your voice up so the reporter can</p> <p>20 hear your --</p> <p>21 A. I will do my best.</p> <p>22 Q. He hasn't mentioned that he hasn't</p> <p>23 but your voice trails off just a bit and I</p> <p>24 just wanted to remind you of that.</p> <p>25 Going to the contract, what -- do</p>
<p style="text-align: right;">Page 110</p> <p>1 Sevier</p> <p>2 that he gave all his proceeds to the</p> <p>3 government so I don't think he gave any of</p> <p>4 them to charity. I don't think he ever was</p> <p>5 allowed to.</p> <p>6 Q. Do you know if Mr. Bissonnette had</p> <p>7 expressed to you any plan of how much he was</p> <p>8 intending to donate to charities?</p> <p>9 A. Not any specific plan beyond the</p> <p>10 proceeds.</p> <p>11 Q. Any percentage, any hard number,</p> <p>12 any goals, anything of that nature?</p> <p>13 A. I don't remember him ever putting</p> <p>14 a hard number percentage on it.</p> <p>15 Q. Did you have an understanding of</p> <p>16 what he intended to do?</p> <p>17 A. I think he wanted to give the</p> <p>18 money to charity.</p> <p>19 Q. All of it?</p> <p>20 A. I really can't say beyond that he</p> <p>21 said he wanted to give the proceeds from the</p> <p>22 book to charity.</p> <p>23 Q. I know I am pressing on this but I</p> <p>24 just want to understand if I have your</p> <p>25 testimony complete.</p>	<p style="text-align: right;">Page 112</p> <p>1 Sevier</p> <p>2 you recall when the contract was first sent</p> <p>3 out to Mr. Bissonnette?</p> <p>4 A. I think a draft of the contract</p> <p>5 was sent around the end of 2011, beginning</p> <p>6 of 2012 but I don't specifically remember.</p> <p>7 Q. I am going to have this next</p> <p>8 exhibit marked which I believe is a draft</p> <p>9 and I will show it to you in a second.</p> <p>10 MR. FURMAN: It will be number</p> <p>11 109.</p> <p>12 (Draft of the contracts for book</p> <p>13 was marked Exhibit 109 for identification)</p> <p>14 BY MR. FURMAN:</p> <p>15 Q. Mr. Sevier, can you take a look at</p> <p>16 Exhibit 109?</p> <p>17 Do you recognize it?</p> <p>18 A. It looks like a draft of the</p> <p>19 contracts for the book.</p> <p>20 Q. Did you send it or did someone</p> <p>21 from your office send it over to Elise</p> <p>22 Cheney?</p> <p>23 A. Someone at Penguin but I can't</p> <p>24 recall anymore specifically than that would</p> <p>25 have sent it to her.</p>

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<p style="text-align: right;">Page 113</p> <p>1 Sevier</p> <p>2 Q. In the second page it is listed as</p> <p>3 in the bottom as ending in numbers 208.</p> <p>4 A. Yes.</p> <p>5 Q. It describes in the whereas clause</p> <p>6 there what the subject matter description of</p> <p>7 what the book was going to be?</p> <p>8 A. Yes.</p> <p>9 Q. And it states that it would be "a</p> <p>10 minute-by-minute account of the author's</p> <p>11 direct experiences leading up to the raid,</p> <p>12 on the raid and in the aftermath of the raid</p> <p>13 including the author's observation of the</p> <p>14 death of bin Laden at which the author</p> <p>15 hereby represents he was present."</p> <p>16 Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. It also goes on to say that, "The</p> <p>19 work shall include details of the author's</p> <p>20 personal experiences during the raid that</p> <p>21 have not previously been reported in the</p> <p>22 media or otherwise disclosed publicly."</p> <p>23 Do you see that?</p> <p>24 A. I do.</p> <p>25 Q. Did -- who prepared that language?</p>	<p style="text-align: right;">Page 115</p> <p>1 Sevier</p> <p>2 conversations with him did Dutton do any</p> <p>3 other investigation to ensure that</p> <p>4 Mr. Bissonnette was actually the person he</p> <p>5 was saying he was?</p> <p>6 A. Not that I can remember now. Not</p> <p>7 that I can remember now, no.</p> <p>8 Q. At the bottom of the description</p> <p>9 in the last several sentences there, maybe</p> <p>10 just one long sentence it states, "The</p> <p>11 author will not use the real names of any</p> <p>12 individual United States nationals including</p> <p>13 his own and the author will not describe or</p> <p>14 acknowledge the existence of any technology</p> <p>15 that is classified by the U.S. Government or</p> <p>16 any other technology where public knowledge</p> <p>17 of said technology might in the author's</p> <p>18 opinion compromise future operations in the</p> <p>19 defense of the United States or of its</p> <p>20 interests."</p> <p>21 Do you see that?</p> <p>22 A. Yes, I do.</p> <p>23 Q. There is a reference there about</p> <p>24 avoiding divulging information that was</p> <p>25 classified about technology, fair to say?</p>
<p style="text-align: right;">Page 114</p> <p>1 Sevier</p> <p>2 A. That would have been me as the</p> <p>3 editor in consultation with our contracts</p> <p>4 departments and as to who actually wrote it</p> <p>5 I can't recall, but would it have been</p> <p>6 drafted and passed back and forth for</p> <p>7 revision.</p> <p>8 Q. So ultimately the approval -- you</p> <p>9 participated in the approval of that</p> <p>10 description of what the book would have</p> <p>11 been?</p> <p>12 A. Yes.</p> <p>13 Q. And did Mr. Bissonnette make the</p> <p>14 representation that he was present at the</p> <p>15 death of bin Laden?</p> <p>16 A. Yes.</p> <p>17 Q. Based on what we described earlier</p> <p>18 you believed it was accurate among other</p> <p>19 things he produced the hat, right?</p> <p>20 A. I believed him, yes.</p> <p>21 Q. He told you enough details about</p> <p>22 the raid that he convinced you that what he</p> <p>23 was saying was true?</p> <p>24 A. Yes.</p> <p>25 Q. Other than obviously your</p>	<p style="text-align: right;">Page 116</p> <p>1 Sevier</p> <p>2 A. Yes.</p> <p>3 Q. Was there any concern about</p> <p>4 divulging information that was classified</p> <p>5 about the operation itself?</p> <p>6 A. You mean among the author, the</p> <p>7 publisher, our team, were we concerned about</p> <p>8 that?</p> <p>9 Q. Yes.</p> <p>10 A. Yes.</p> <p>11 Q. Before this contract was</p> <p>12 ultimately signed did you express that in</p> <p>13 any particular way, that concern?</p> <p>14 MR. JOHNSTON: Object to the</p> <p>15 form of the question to the extent</p> <p>16 that it asks for what is essentially</p> <p>17 in a document therefore best evidence.</p> <p>18 THE WITNESS: I had</p> <p>19 conversations with the author and his</p> <p>20 representatives that nobody wanted any</p> <p>21 classified information to be in this</p> <p>22 book. The author, the publisher, me,</p> <p>23 the editor, et cetera, the intent was</p> <p>24 to keep this book free of classified</p> <p>25 information.</p>

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<p style="text-align: right;">Page 117</p> <p>1 Sevier</p> <p>2 BY MR. FURMAN:</p> <p>3 Q. Putting aside the issue of</p> <p>4 classified information, did -- in the</p> <p>5 formation of the contract did you address</p> <p>6 any concerns about the author's right</p> <p>7 legally, legal right, to tell that story?</p> <p>8 MS. FOLEY: Object. Asked and</p> <p>9 answered.</p> <p>10 THE WITNESS: Yes.</p> <p>11 BY MR. FURMAN:</p> <p>12 Q. About the contract?</p> <p>13 A. Yes.</p> <p>14 Q. In what form?</p> <p>15 A. I believe there is a clause in the</p> <p>16 contract somewhere that where he warrants --</p> <p>17 the author warrants that he has the legal</p> <p>18 rights to tell the story.</p> <p>19 Q. Now, I am going to show you the</p> <p>20 next document would be document 110. This</p> <p>21 is what I believe to be the signed copy of</p> <p>22 the contract.</p> <p>23 (Copy of the publishing contract</p> <p>24 was marked Exhibit 110 for identification)</p> <p>25</p>	<p style="text-align: right;">Page 119</p> <p>1 Sevier</p> <p>2 that it is signed by some of our</p> <p>3 employees leads me to believe it</p> <p>4 probably is.</p> <p>5 BY MR. FURMAN:</p> <p>6 Q. I want to ask you about that</p> <p>7 portion that is being blacked out. It is on</p> <p>8 the third page in to this document.</p> <p>9 Do you know why it is blacked out?</p> <p>10 A. I have no idea.</p> <p>11 Q. Do you know or have any</p> <p>12 recollection when it was executed, the final</p> <p>13 version of the contract, that the subject</p> <p>14 matter description of the book was redacted</p> <p>15 in one form or another?</p> <p>16 A. In this specific document?</p> <p>17 Q. Yes.</p> <p>18 A. Again, I really have no idea.</p> <p>19 Q. Does Dutton have a copy of -- the</p> <p>20 executed copy of, their own copy of this</p> <p>21 contract?</p> <p>22 A. I am sure we do. We keep all of</p> <p>23 our contracts.</p> <p>24 Q. Okay. What I will do is we will</p> <p>25 follow up with, I guess we will have to do</p>
<p style="text-align: right;">Page 118</p> <p>1 Sevier</p> <p>2 BY MR. FURMAN:</p> <p>3 Q. Take a moment, Mr. Sevier, to</p> <p>4 review Exhibit 109.</p> <p>5 My question as you review it</p> <p>6 whether you recognize this document as the</p> <p>7 final and executed copy of the publishing</p> <p>8 contract with Mr. Bissonnette. Exhibit 110.</p> <p>9 Sorry.</p> <p>10 MS. FOLEY: What is the question</p> <p>11 again?</p> <p>12 MR. FURMAN: I will ask the</p> <p>13 question again.</p> <p>14 BY MR. FURMAN:</p> <p>15 Q. Do you recognize Exhibit 110 as</p> <p>16 the executed copy of the publishing contract</p> <p>17 between Dutton/Penguin with Mark Owen who we</p> <p>18 know is Matthew Bissonnette?</p> <p>19 MS. FOLEY: Take a look at it</p> <p>20 and to the extent you can answer,</p> <p>21 answer.</p> <p>22 THE WITNESS: Without comparing</p> <p>23 every word it is hard for me to say</p> <p>24 definitively especially since part of</p> <p>25 this has been blacked out but the fact</p>	<p style="text-align: right;">Page 120</p> <p>1 Sevier</p> <p>2 it through subpoena unless provided by</p> <p>3 agreement, for a copy of the executed version</p> <p>4 of this contract. Among other things I</p> <p>5 would like to know whether it is redacted or</p> <p>6 not. I have a copy --</p> <p>7 A. Right.</p> <p>8 Q. -- and I don't know if the copy</p> <p>9 that you have is redacted. I may ask you</p> <p>10 followup questions to the extent your</p> <p>11 counsel will allow me to do so. I can do</p> <p>12 that simply by interrogatory as to whether</p> <p>13 if in fact your version is redacted I would</p> <p>14 like to know why.</p> <p>15 As you sit here today you have</p> <p>16 no -- one way or another do you know whether</p> <p>17 your copy is redacted?</p> <p>18 A. I don't.</p> <p>19 I do have a clarification on an</p> <p>20 earlier answer if it is okay.</p> <p>21 MS. HIROSE: You want to clarify</p> <p>22 an earlier answer?</p> <p>23 THE WITNESS: Yes.</p> <p>24 You asked me if this is the</p> <p>25 final executed contract and I guess</p>

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<p style="text-align: right;">Page 121</p> <p>1 Sevier</p> <p>2 the answer is no because it does not</p> <p>3 have the author's signature on it.</p> <p>4 The only final executed contract</p> <p>5 would have the author's signature on</p> <p>6 it as I understand it.</p> <p>7 Is this a photocopy of the same</p> <p>8 document without his signature on it?</p> <p>9 Possibly. I can't tell you that. But</p> <p>10 the final contract would have his</p> <p>11 signature on it.</p> <p>12 BY MR. FURMAN:</p> <p>13 Q. I think we will be following up</p> <p>14 with you, we would need it for the trial of</p> <p>15 the case so we will follow up with a</p> <p>16 subpoena for that.</p> <p>17 Again, I may want to ask another</p> <p>18 question if I could by interrogatory. I</p> <p>19 will just ask at trial if it is redacted as</p> <p>20 to why it was.</p> <p>21 Now, getting back to the</p> <p>22 exhibit -- time line. Exhibit 9, an e-mail</p> <p>23 that is in front of you that is dated</p> <p>24 January 3rd. It has the time line on it.</p> <p>25 A. Got it.</p>	<p style="text-align: right;">Page 123</p> <p>1 Sevier</p> <p>2 knowledge if you can look at Exhibit 110.</p> <p>3 MR. JOHNSTON: Let me for the</p> <p>4 record object to the extent that you</p> <p>5 are characterizing the document.</p> <p>6 I recognize your reservation of</p> <p>7 his answer but I want to be sure that</p> <p>8 objection is on the record.</p> <p>9 MR. FURMAN: Yes, understood it.</p> <p>10 I am virtually positive we are dealing</p> <p>11 with the final copy. We will only</p> <p>12 know when we get it.</p> <p>13 BY MR. FURMAN:</p> <p>14 Q. But I am going to refer you to</p> <p>15 Exhibit 110 just for the moment and</p> <p>16 paragraph 4B.</p> <p>17 A. Paragraph 4B?</p> <p>18 Q. Yes. 4B.</p> <p>19 4B, I will paraphrase it, says</p> <p>20 that the book needs to be published within</p> <p>21 12 months. That is in --</p> <p>22 MS. FOLEY: What language are</p> <p>23 you reading?</p> <p>24 MR. FURMAN: 4B, and it is the</p> <p>25 last -- it is the second to last line</p>
<p style="text-align: right;">Page 122</p> <p>1 Sevier</p> <p>2 Q. What were the next steps that you</p> <p>3 recall after this e-mail was sent, what do</p> <p>4 you recall happening? I am trying to get a</p> <p>5 sense of what was taking place.</p> <p>6 A. This was -- so right after this we</p> <p>7 would have been finalizing our list of three</p> <p>8 candidates for co-writer, the three best</p> <p>9 options that Elise and I had come up with to</p> <p>10 introduce to Matt.</p> <p>11 And then as this refers to I spoke</p> <p>12 with those three people to give them a sense</p> <p>13 of what they would be interviewed about.</p> <p>14 I believe that all three of them</p> <p>15 met with Matt subsequent to this and then we</p> <p>16 selected the co-writer. That would have</p> <p>17 been the next step after this e-mail.</p> <p>18 Q. Now, on -- in terms of publishing</p> <p>19 the book, the contract and you have seen a</p> <p>20 draft and at least a version of a signed</p> <p>21 copy of the contract, Exhibit 110. I want</p> <p>22 to refer you to it for a moment with the</p> <p>23 understanding that this is, you know, not</p> <p>24 the final signed copy. I appreciate that,</p> <p>25 your addition to your answer. With that</p>	<p style="text-align: right;">Page 124</p> <p>1 Sevier</p> <p>2 of 4B. I may be wrong on that.</p> <p>3 Sorry. I have got someone smarter</p> <p>4 than me correct me.</p> <p>5 BY MR. FURMAN:</p> <p>6 Q. Paragraphs 4A and B read in</p> <p>7 conjunction require that the book -- that</p> <p>8 "The publisher will within 18 months of</p> <p>9 acceptance of the work publish or cause the</p> <p>10 publication of the work to be published."</p> <p>11 Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. How did that 18-month deadline</p> <p>14 come into play?</p> <p>15 A. I don't remember specifically for</p> <p>16 this contract why 18 months was chosen. It</p> <p>17 looks to me like it is a revision to what</p> <p>18 our standard boilerplate is.</p> <p>19 Q. What is the standard boilerplate?</p> <p>20 A. I think that it is -- actually I</p> <p>21 am not sure what the stand boilerplate is.</p> <p>22 I know that there is a range of date we use</p> <p>23 and it is a negotiation point on each</p> <p>24 project.</p> <p>25 Q. In 4B it states that the failure</p>

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<p>1 Sevier</p> <p>2 of the publisher to publish the book within</p> <p>3 the time frame set forth in 4A, which is 18</p> <p>4 months, I am paraphrasing here, means that,</p> <p>5 it -- the contract will not be deemed a</p> <p>6 violation if the failure to publish is</p> <p>7 caused by a restriction of -- by the</p> <p>8 government.</p> <p>9 And I will refer you just so that</p> <p>10 you can understand why I am paraphrasing, it</p> <p>11 is in paragraph 4B.</p> <p>12 MS. FOLEY: Just to clarify your</p> <p>13 question, make sure it is fully</p> <p>14 accurate as to what the contract says</p> <p>15 when it says that publisher will</p> <p>16 within 18 months after acceptance of</p> <p>17 the work publish or cause publication</p> <p>18 of the work. So it is 18 months from</p> <p>19 acceptance of the work.</p> <p>20 MR. FURMAN: I think I said that</p> <p>21 but you are right to point that out</p> <p>22 regardless, whether I said it or not,</p> <p>23 that is accurate.</p> <p>24 BY MR. FURMAN:</p> <p>25 Q. And what I am asking is -- now I</p>	<p>1 Sevier</p> <p>2 A. I am sorry, guys. I need silence</p> <p>3 if I am going to understand this paragraph.</p> <p>4 Can we just all -- thank you.</p> <p>5 Okay. I have read it.</p> <p>6 Q. Let me walk you through some dates</p> <p>7 so that we are all on the same page.</p> <p>8 At the very top of that page</p> <p>9 "Delivery of Manuscript," it says that the</p> <p>10 proprietor, that would be Mr. Bissonnette,</p> <p>11 shall deliver to the publisher on or before</p> <p>12 June 1st of 2012 essentially the book.</p> <p>13 A. Yes.</p> <p>14 Q. That is the date that is reflected</p> <p>15 in that time line that we discussed in that</p> <p>16 e-mail?</p> <p>17 A. Right.</p> <p>18 Q. And then if you take that June 1st</p> <p>19 date -- from that June 1st date the</p> <p>20 publisher has 18 months based on 4A, 4B to</p> <p>21 publish the book?</p> <p>22 MS. FOLEY: Object to the form</p> <p>23 of the question.</p> <p>24 The contract says "from</p> <p>25 acceptance."</p>
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<p>1 Sevier</p> <p>2 am referring to the first three lines of 4B</p> <p>3 and what I am asking you is if you recall</p> <p>4 that the contract includes a clause that</p> <p>5 allows the failure of the publisher to</p> <p>6 publish a book beyond 18 months or not to do</p> <p>7 it within 18 months if the failure to</p> <p>8 publish is caused by restrictions of</p> <p>9 government agencies.</p> <p>10 Do you see that?</p> <p>11 A. Which -- you are referring to two</p> <p>12 different clauses here. The one you are</p> <p>13 talking about now is 4B.</p> <p>14 Q. Read the first three lines of 4B</p> <p>15 to yourself and then I will ask you</p> <p>16 questions about it. That is the best way to</p> <p>17 do it.</p> <p>18 If you need a magnifying glass I</p> <p>19 have one.</p> <p>20 MS. FOLEY: Do you?</p> <p>21 THE WITNESS: I don't need a</p> <p>22 magnifying glass. Thank you.</p> <p>23 BY MR. FURMAN:</p> <p>24 Q. I got one for the nondisclosure</p> <p>25 agreement.</p>	<p>1 Sevier</p> <p>2 MR. FURMAN: "From acceptance."</p> <p>3 MS. FOLEY: "Acceptance" is not</p> <p>4 the same as "delivery."</p> <p>5 MR. FURMAN: Correct. You are</p> <p>6 right.</p> <p>7 BY MR. FURMAN:</p> <p>8 Q. So from acceptance of the work.</p> <p>9 Let's assume because it happened that the</p> <p>10 book is accepted by June 1st. Let's say it</p> <p>11 is accepted by.</p> <p>12 MS. FOLEY: You are saying</p> <p>13 hypothetically.</p> <p>14 MR. FURMAN: It was accepted by</p> <p>15 June 1st.</p> <p>16 MS. FOLEY: Okay.</p> <p>17 THE WITNESS: I want to clarify</p> <p>18 that is not actually what happened.</p> <p>19 For the purposes of this hypothetical</p> <p>20 it is June 1st.</p> <p>21 BY MR. FURMAN:</p> <p>22 Q. I am wondering whether it is even</p> <p>23 worth asking the question but I am going to</p> <p>24 try.</p> <p>25 For the purpose of just this</p>

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<p style="text-align: right;">Page 129</p> <p>1 Sevier</p> <p>2 hypothetical, if the work is accepted by</p> <p>3 June 1st, right, 18 months then would have</p> <p>4 been December 1st, I think of 2013?</p> <p>5 A. That sounds right.</p> <p>6 Q. I will represent to you that</p> <p>7 someone next to me calculated that so it is</p> <p>8 accurate.</p> <p>9 A. Okay.</p> <p>10 Q. Could then -- again making that</p> <p>11 assumption that the book would have been</p> <p>12 accepted by June 1st, the book could have</p> <p>13 been published at any point in time before</p> <p>14 December 1st of 2013 as per the contract?</p> <p>15 A. I mean I don't think that the way</p> <p>16 I interpret these paragraphs and our</p> <p>17 contract generally, it is not that there is</p> <p>18 a limitation of when we can publish but the</p> <p>19 paragraphs protect both the author and</p> <p>20 publisher from the circumstance where the</p> <p>21 book doesn't get published or can't be</p> <p>22 published even though it has been accepted.</p> <p>23 Q. Okay. The book obviously was</p> <p>24 published in September of 2012. My point</p> <p>25 and what I am driving at is that the book</p>	<p style="text-align: right;">Page 131</p> <p>1 Sevier</p> <p>2 MS. FOLEY: I am going to object</p> <p>3 to the form of the question noting</p> <p>4 that you are asking a lay person to</p> <p>5 interpret the legal obligations of a</p> <p>6 party in a contract.</p> <p>7 BY MR. FURMAN:</p> <p>8 Q. You can answer.</p> <p>9 A. Yes. That is my general</p> <p>10 understanding.</p> <p>11 If any of these conditions listed</p> <p>12 here, the reason for the failure to publish</p> <p>13 then the author can't seek remedy under the</p> <p>14 contract, keep the money and not having it</p> <p>15 published. That is the way I think of it.</p> <p>16 Q. So hypothetically if Matthew</p> <p>17 Bissonnette submitted the book for a</p> <p>18 prepublication review and the government</p> <p>19 decided to delay the process of reviewing</p> <p>20 the book for any number of months and it</p> <p>21 would have gone past the December 1st, 2013</p> <p>22 date, is it fair to say there would have</p> <p>23 been no violation on the part of Dutton and</p> <p>24 no violation on the part of the author to</p> <p>25 wait for that process to complete?</p>
<p style="text-align: right;">Page 130</p> <p>1 Sevier</p> <p>2 could have been published November --</p> <p>3 October, November, December of 2013 without</p> <p>4 any violation on the part of either yourself</p> <p>5 or the author under the terms of this</p> <p>6 contract?</p> <p>7 A. Yes. That is my understanding.</p> <p>8 That is consistent with my understanding.</p> <p>9 Q. Okay. And in addition beyond that</p> <p>10 in 4B if in fact there was an objection or a</p> <p>11 restriction as the word is used in the</p> <p>12 contract by a governmental agency there</p> <p>13 would be no violation on the part of Dutton</p> <p>14 if they had failed to publish the book by</p> <p>15 December 1st or whatever that date would</p> <p>16 have been?</p> <p>17 MR. JOHNSTON: Object to the use</p> <p>18 of the word "objection" but I agree</p> <p>19 with the word "restriction." That is</p> <p>20 the word in the contract.</p> <p>21 THE WITNESS: I am sorry. What</p> <p>22 is the question?</p> <p>23 MR. FURMAN: I will have to ask</p> <p>24 the reporter to read it back.</p> <p>25 (Record read)</p>	<p style="text-align: right;">Page 132</p> <p>1 Sevier</p> <p>2 MS. FOLEY: Object to the form</p> <p>3 of the question.</p> <p>4 MR. JOHNSTON: Object to the</p> <p>5 form of the question.</p> <p>6 MS. FOLEY: Do you want to read</p> <p>7 the question back?</p> <p>8 THE WITNESS: I am having a hard</p> <p>9 time parsing the question and these</p> <p>10 paragraphs to be honest. I would love</p> <p>11 to answer.</p> <p>12 (Record read)</p> <p>13 THE WITNESS: I am not sure that</p> <p>14 these paragraphs apply to that</p> <p>15 circumstance because the work, the way</p> <p>16 I understood it, could not be accepted</p> <p>17 in the legal sense until after any</p> <p>18 such review happened so that is where</p> <p>19 my problem is here.</p> <p>20 I am not -- I do not think that</p> <p>21 these paragraphs are necessarily</p> <p>22 applicable to the situation you are</p> <p>23 describing.</p> <p>24 BY MR. FURMAN:</p> <p>25 Q. Okay. And so let's focus on the</p>

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<p style="text-align: right;">Page 133</p> <p>1 Sevier</p> <p>2 acceptance part of it because that would</p> <p>3 have been the June 1st date and that is</p> <p>4 referenced in 3A of the contract. That</p> <p>5 is --</p> <p>6 MS. FOLEY: Let me just clarify.</p> <p>7 The delivery is referenced in</p> <p>8 3A.</p> <p>9 BY MR. FURMAN:</p> <p>10 Q. Give me a moment just to find the</p> <p>11 section of the acceptance.</p> <p>12 What I would suggest and I don't</p> <p>13 mind doing this while a question is pending</p> <p>14 is, I probably have about another hour or</p> <p>15 so, hour-and-a-half, 90 minutes to go so if</p> <p>16 you want to break for lunch now this is a</p> <p>17 fine time to do it and we will resume. I</p> <p>18 don't need a long lunch break but it is</p> <p>19 entirely up to you.</p> <p>20 MS. FOLEY: Let's say 1:45.</p> <p>21 (Luncheon recess: 12:46 p.m.)</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 135</p> <p>1 Sevier</p> <p>2 time is it fair to say that once the</p> <p>3 publisher was in possession of the work that</p> <p>4 was in a form that was satisfactory to the</p> <p>5 publisher that then as per 4A and B of the</p> <p>6 contract then the publisher had 18 months</p> <p>7 from which to publish the book?</p> <p>8 A. Yes. Under -- that is my</p> <p>9 understanding without holding myself up as a</p> <p>10 contract expert or a lawyer who would need</p> <p>11 to parse this language more carefully, that</p> <p>12 sounds right to me.</p> <p>13 Q. We are going to get the details of</p> <p>14 this but there came a point in time when</p> <p>15 there was an objection to the publication of</p> <p>16 the book from the government in August --</p> <p>17 the end of August 2012, correct?</p> <p>18 A. Yes.</p> <p>19 Q. Did the publisher make a decision</p> <p>20 one way or the other whether to submit the</p> <p>21 book for a prepublication review?</p> <p>22 A. No.</p> <p>23 Q. At any point in time before</p> <p>24 August 30, 2012, that is the date of the Jeh</p> <p>25 Johnson letter. You know what I am</p>
<p style="text-align: right;">Page 134</p> <p>1 Sevier</p> <p>2 AFTERNOON SESSION</p> <p>3 1:44 p.m.</p> <p>4 BY MR. FURMAN:</p> <p>5 Q. Mr. Sevier, 3A of the contract,</p> <p>6 Exhibit 110, that we were looking at before</p> <p>7 the break, there is a reference there that</p> <p>8 the author should deliver to the publisher</p> <p>9 before June 1st of 2012 the work in a form</p> <p>10 that is satisfactory to the publisher. Is</p> <p>11 that -- I paraphrased it obviously but is</p> <p>12 that what you understand the contract to</p> <p>13 say?</p> <p>14 A. Yes.</p> <p>15 Q. Did that take place? Did -- was</p> <p>16 the work delivered in this -- as far as No</p> <p>17 Easy Day was concerned was it delivered to</p> <p>18 the publisher by June 1st in a form that was</p> <p>19 satisfactory to the publisher?</p> <p>20 A. My memory is that we were delayed</p> <p>21 about a month and it was closer to July 4th,</p> <p>22 around there that we actually had the</p> <p>23 complete manuscript.</p> <p>24 Q. All right.</p> <p>25 From say that July 4th period of</p>	<p style="text-align: right;">Page 136</p> <p>1 Sevier</p> <p>2 referring to when I say the August 30th Jeh</p> <p>3 Johnson letter?</p> <p>4 A. Yes.</p> <p>5 Q. Before the August 30, Jeh Johnson</p> <p>6 letter did Dutton take any steps to submit</p> <p>7 the book for a prepublication review by the</p> <p>8 U.S. Government?</p> <p>9 A. No.</p> <p>10 Q. Did -- now hypothetically if</p> <p>11 Dutton chose to do so after August 30, 2012</p> <p>12 letter from Jeh Johnson could Dutton have</p> <p>13 done so and have been protected pursuant to</p> <p>14 the contract to the best of your knowledge,</p> <p>15 I am not asking as a lawyer but to the best</p> <p>16 of your knowledge under 4B of the contract?</p> <p>17 MS. FOLEY: Object to the form</p> <p>18 of the question.</p> <p>19 THE WITNESS: I am not totally</p> <p>20 following.</p> <p>21 You are asking me if we had</p> <p>22 submitted for review after</p> <p>23 August 30th, 2012?</p> <p>24 BY MR. FURMAN:</p> <p>25 Q. Sure. At any point in time after</p>

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<p style="text-align: right;">Page 137</p> <p>1 Sevier</p> <p>2 August 30, 2012.</p> <p>3 Let's say on September 1st of 2012</p> <p>4 Dutton decided that they would submit the</p> <p>5 book for a prepublication review to the U.S.</p> <p>6 Government.</p> <p>7 Let's say that that process took</p> <p>8 two years.</p> <p>9 Under the terms of the contract</p> <p>10 there would be no penalty to Dutton for</p> <p>11 that?</p> <p>12 MS. FOLEY: I am going to object</p> <p>13 to the form of the question to clarify</p> <p>14 that Dutton had no obligation to</p> <p>15 submit to the government for review</p> <p>16 and would not have been a party to</p> <p>17 submit to the government for a review.</p> <p>18 MR. FURMAN: You are doing</p> <p>19 speaking objections now. I don't mind</p> <p>20 if you object. Obviously you have a</p> <p>21 right to, but all of your objections</p> <p>22 have been so far speaking objections.</p> <p>23 And since this is probably my third or</p> <p>24 fourth deposition in my career I</p> <p>25 appreciate that when lawyers give</p>	<p style="text-align: right;">Page 139</p> <p>1 Sevier</p> <p>2 MR. FURMAN: I would like you to</p> <p>3 refrain from speaking objections. All</p> <p>4 I can do is ask you.</p> <p>5 All right. Can I have my last</p> <p>6 question read back.</p> <p>7 All I can do is ask and, you</p> <p>8 know, nothing I can do beyond that.</p> <p>9 (Record read)</p> <p>10 MS. FOLEY: I will state for the</p> <p>11 record my objection has nothing to do</p> <p>12 would how to answer the question. It</p> <p>13 has to do with the form of the</p> <p>14 question.</p> <p>15 MR. FURMAN: Okay.</p> <p>16 THE WITNESS: By September 1st,</p> <p>17 2012 we had a half million copies of</p> <p>18 this book in the marketplace.</p> <p>19 I am not sure how we could have</p> <p>20 asked about applying for a security</p> <p>21 review at that point so I am not sure</p> <p>22 how to answer the question.</p> <p>23 BY MR. FURMAN:</p> <p>24 Q. Is that your answer to the</p> <p>25 question?</p>
<p style="text-align: right;">Page 138</p> <p>1 Sevier</p> <p>2 speaking objections they are in one</p> <p>3 form or another signaling to their</p> <p>4 client how to answer. So I would like</p> <p>5 it if you could to avoid speaking</p> <p>6 objections.</p> <p>7 MS. FOLEY: I understand your</p> <p>8 position. My objections are</p> <p>9 appropriate.</p> <p>10 MR. FURMAN: But they are</p> <p>11 speaking objections.</p> <p>12 MS. FOLEY: We don't need to</p> <p>13 fight about the form of your question.</p> <p>14 I understand your point and I</p> <p>15 have it in mind and I am confident in</p> <p>16 what I am doing.</p> <p>17 MR. FURMAN: I am not</p> <p>18 challenging your competence.</p> <p>19 I am just -- you know, I am</p> <p>20 protecting my client's rights and my</p> <p>21 client's rights are --</p> <p>22 MS. FOLEY: I understand that</p> <p>23 you have to make that statement. We</p> <p>24 each have to have our own positions on</p> <p>25 this.</p>	<p style="text-align: right;">Page 140</p> <p>1 Sevier</p> <p>2 A. I guess it is. You tell me. Does</p> <p>3 it answer your question?</p> <p>4 Q. I don't think so. Because I am</p> <p>5 not asking you about the fact that there</p> <p>6 were books printed or otherwise.</p> <p>7 What I am asking you is if on</p> <p>8 September 1st of 2012 if Dutton decided to</p> <p>9 submit the book for a prepublication review</p> <p>10 there would have been -- that would have</p> <p>11 protected them from any violation of the</p> <p>12 contract to publish within 18 months of</p> <p>13 acceptance, is that fair to say?</p> <p>14 MR. JOHNSTON: Object to the</p> <p>15 extent that it mischaracterizes the</p> <p>16 contract.</p> <p>17 THE WITNESS: My answer is that</p> <p>18 by September 1st, 2012 the book was</p> <p>19 for all intents and purposes</p> <p>20 published.</p> <p>21 The books were in the</p> <p>22 marketplace so it would have been</p> <p>23 impossible to ask for a prepublication</p> <p>24 review in my opinion.</p> <p>25</p>

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<p>1 Sevier</p> <p>2 BY MR. FURMAN:</p> <p>3 Q. Let me ask you what that word</p> <p>4 "publish" means. Does the word "publish"</p> <p>5 mean that books are in bookstores?</p> <p>6 MS. FOLEY: Are you asking for</p> <p>7 his opinion?</p> <p>8 MR. FURMAN: No. I want to know</p> <p>9 what it means.</p> <p>10 BY MR. FURMAN:</p> <p>11 Q. In the context of No Easy Day when</p> <p>12 was the book published, what date?</p> <p>13 A. The publication date was</p> <p>14 September 4th, 2012.</p> <p>15 Q. September 4th, 2012?</p> <p>16 A. That is my memory.</p> <p>17 Q. On September 3rd of 2012 could</p> <p>18 Dutton have submitted the book for a</p> <p>19 prepublication review, yes or no?</p> <p>20 MS. FOLEY: Asked and answered.</p> <p>21 THE WITNESS: I don't see how.</p> <p>22 I don't see how. Typically in my</p> <p>23 experience it is not the publisher's</p> <p>24 job to do that.</p> <p>25 I wouldn't know who to call, I</p>	<p>1 Sevier</p> <p>2 understand about our business especially in</p> <p>3 a huge country like the United States is</p> <p>4 that when you are printing many hundreds of</p> <p>5 thousands of copies of a book to go to</p> <p>6 thousands of bookstore locations and other</p> <p>7 retailers around the country, you have to</p> <p>8 print those books many weeks before the</p> <p>9 publication date to get them on trucks and</p> <p>10 get them shipped to distributors around the</p> <p>11 country so --</p> <p>12 Q. I am not asking about the process.</p> <p>13 I can understand that printing and delivery</p> <p>14 and UPS and it sounds like a whole army of</p> <p>15 people involved but I am not asking you</p> <p>16 about the process of getting the book to the</p> <p>17 bookshelves.</p> <p>18 I am asking you about a</p> <p>19 publication date. So I will ask you again.</p> <p>20 Out of all the people in the world I am here</p> <p>21 to ask you this question. When was No Easy</p> <p>22 Day published?</p> <p>23 MR. JOHNSTON: Objection. Asked</p> <p>24 and answered.</p> <p>25 MS. FOLEY: Objection to the</p>
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<p>1 Sevier</p> <p>2 wouldn't know where to submit it.</p> <p>3 BY MR. FURMAN:</p> <p>4 Q. On September 3rd of 2012 do I have</p> <p>5 an understanding that the book was published</p> <p>6 on September 4th of 2012, is that what I</p> <p>7 understand you are saying?</p> <p>8 A. Yes. Colloquially that makes</p> <p>9 sense, yes, that is accurate. The</p> <p>10 publication date, the book was published on</p> <p>11 September 4th, 2012. That is accurate.</p> <p>12 Q. I can only ask you the publisher.</p> <p>13 So your job with No Easy Day was to publish</p> <p>14 the book, right?</p> <p>15 A. Right.</p> <p>16 Q. So when I ask -- if I am going to</p> <p>17 ask anyone in the universe I going to ask</p> <p>18 you, Ben Sevier, when that book was</p> <p>19 published, right?</p> <p>20 A. I hear what you are saying. I</p> <p>21 understand the question now.</p> <p>22 Q. Okay.</p> <p>23 A. But to me there is a difference</p> <p>24 between published and printed.</p> <p>25 I mean, we -- what you have to</p>	<p>1 Sevier</p> <p>2 form of the question.</p> <p>3 THE WITNESS: I think I said</p> <p>4 that numerous times. The publication</p> <p>5 date was 9/4/12.</p> <p>6 MS. FOLEY: I am also going to</p> <p>7 object to the extent you are asking</p> <p>8 the witness a question about what</p> <p>9 publication means for legal purposes.</p> <p>10 BY MR. FURMAN:</p> <p>11 Q. Now on September 30th --</p> <p>12 MS. FOLEY: September 30?</p> <p>13 BY MR. FURMAN:</p> <p>14 Q. No, I am sorry, forgive me,</p> <p>15 August 30th of 2012 when the Jeh Johnson</p> <p>16 letter was received that was before</p> <p>17 September 4th of 2012, right?</p> <p>18 A. Yes.</p> <p>19 Q. And so that -- following your</p> <p>20 testimony that was several days before the</p> <p>21 publication of the book of No Easy Day,</p> <p>22 correct?</p> <p>23 MS. FOLEY: Object.</p> <p>24 THE WITNESS: Yes.</p> <p>25</p>

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<p style="text-align: right;">Page 145</p> <p>1 Sevier</p> <p>2 BY MR. FURMAN:</p> <p>3 Q. And on that day or the next day</p> <p>4 did anyone, you, Elise Cheney, anyone</p> <p>5 involved including the author submit the</p> <p>6 book for a prepublication review?</p> <p>7 A. Not to my knowledge.</p> <p>8 Q. Did you have a discussion with</p> <p>9 anyone about whether to submit the book for</p> <p>10 a prepublication review on August -- after</p> <p>11 receipt of Jeh Johnson's letter of August</p> <p>12 30th, 2012?</p> <p>13 A. Not that I can recall.</p> <p>14 Q. Did you think it was worth</p> <p>15 exploring or considering?</p> <p>16 A. No. Not as far as I remember.</p> <p>17 Q. Let me switch to ask you some</p> <p>18 questions just about the payments and you</p> <p>19 may not have the answers and if you don't</p> <p>20 that is fine. I just want to know how to</p> <p>21 get the answers.</p> <p>22 So, first question, I am asking</p> <p>23 about the advances and royalties.</p> <p>24 A. Okay.</p> <p>25 Q. How is the advance paid to</p>	<p style="text-align: right;">Page 147</p> <p>1 Sevier</p> <p>2 A. Our accounts payable department.</p> <p>3 Q. If you needed to find out that</p> <p>4 the -- how the royalties were paid how would</p> <p>5 you do that? You obviously don't know,</p> <p>6 would you call someone in the accounting</p> <p>7 department, they would tell you how it was</p> <p>8 done, by wire, by check, et cetera?</p> <p>9 A. Yes. That's right.</p> <p>10 Q. So we may follow up with some -- a</p> <p>11 subpoena for some information that relates</p> <p>12 to that.</p> <p>13 How were the royalties calculated,</p> <p>14 the payments that were to be sent to the</p> <p>15 author?</p> <p>16 A. Well, typically once an advance</p> <p>17 has been earned out the author will be</p> <p>18 eligible to receive royalties I think what</p> <p>19 you are referring to as royalties --</p> <p>20 Q. Yes.</p> <p>21 A. -- which are the payments that</p> <p>22 come out after the advance has been earned</p> <p>23 out and that would happen typically in a</p> <p>24 six-month schedule.</p> <p>25 Any monies that come in to the</p>
<p style="text-align: right;">Page 146</p> <p>1 Sevier</p> <p>2 Mr. Bissonnette?</p> <p>3 A. Typically by contract structure in</p> <p>4 a series of payments. It happens at various</p> <p>5 milestones in the production and publication</p> <p>6 process so this contract my memory is it was</p> <p>7 a million dollar advance. There were four</p> <p>8 payments outlined in the contract.</p> <p>9 One that was due on signing of the</p> <p>10 contract, one that would have been due on</p> <p>11 delivery and acceptance of the contract.</p> <p>12 One that would have been due upon</p> <p>13 publication and one that would have been due</p> <p>14 I suspect although I can't remember</p> <p>15 specifically on paperback publication.</p> <p>16 MR. JOHNSTON: I am sorry. What</p> <p>17 was that last?</p> <p>18 THE WITNESS: On paperback</p> <p>19 publication.</p> <p>20 BY MR. FURMAN:</p> <p>21 Q. How did the money get delivered,</p> <p>22 just the mechanics, was it wired, check?</p> <p>23 A. I don't know.</p> <p>24 Q. Who handles that for Dutton? Is</p> <p>25 it --</p>	<p style="text-align: right;">Page 148</p> <p>1 Sevier</p> <p>2 publisher related to the sales of the book</p> <p>3 or subsidiary rights licensing the book or</p> <p>4 any other kind of earnings around that book</p> <p>5 are held in royalty accounts for the author</p> <p>6 and paid out every six months.</p> <p>7 Q. What is the arithmetic that is</p> <p>8 attached to that? In other words, how --</p> <p>9 how is the royalty number decided. For</p> <p>10 example, if you, Dutton receives \$100,000</p> <p>11 worth of book sales from around the country</p> <p>12 and the world related to No Easy Day it goes</p> <p>13 into a Dutton account. How then is the</p> <p>14 royalty number calculated?</p> <p>15 MS. FOLEY: Objection. Lack of</p> <p>16 foundation.</p> <p>17 THE WITNESS: It is laid out in</p> <p>18 the contract as a percentage of either</p> <p>19 the list price of the book or the net</p> <p>20 receipts to the publisher, I believe.</p> <p>21 Those are the two primary ways.</p> <p>22 There may be others that I am</p> <p>23 not thinking of.</p> <p>24 It has -- it has to do with the</p> <p>25 kind of sale that is happening, like</p>

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1 Sevier
2 hardcover -- for instance, there is a
3 hardcover royalty which might be
4 different from the royalty paid on a
5 paperback copy which might be
6 different from the royalty paid on an
7 electronic copy which might be
8 different from any payments associated
9 with foreign publishers to whom we
10 have licensed the rights so that would
11 be -- so all of that is calculated in
12 the royalty accounting department.
13 BY MR. FURMAN:
14 Q. So the gross receipt numbers are
15 then -- you take that number, you apply
16 percentages that are outlined in the
17 contract and then you have the number that
18 is the royalty amount for the author. I am
19 saying that in a very general way. I just
20 want to know --
21 A. That is essentially right. That
22 sounds right to me.
23 Q. For No Easy Day does it have
24 records that they maintain that indicate the
25 amount of gross receipts for the various

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1 Sevier
2 versions of the book, paperback, hard copy,
3 et cetera, on a rolling basis from the time
4 that it was first published on September 4th
5 of 2012 to the current -- to today, do you
6 have accounts for that?
7 A. Yes. Penguin's royalty accounting
8 department has those records as far as I
9 know. They certainly do for every other
10 book I published.
11 Q. Okay. We would like to have
12 access to that. Whether we will get it we
13 will see.
14 I am trying to understand who I
15 would be asking for that information.
16 MS. FOLEY: Let me point you to
17 the paragraph -- the rider to
18 paragraph 27 in the contract which
19 spells out how payments are made.
20 It is page 12 on your exhibit.
21 MS. HIROSE: Exhibit 110.
22 BY MR. FURMAN:
23 Q. The process -- I wanted to know
24 just where the records are because we would
25 like to issue a subpoena to the appropriate

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1 Sevier
2 person to be able to get the records so that
3 we understand how much has come into Penguin
4 based on No Easy Day in gross figures from
5 the time of publication in September --
6 September 4th of 2012 until the present day.
7 That is --
8 MS. FOLEY: If you look the
9 royalty payments are sent to the
10 agent, literary agent.
11 The royalty statements are going
12 to have the information you are
13 asking.
14 MR. FURMAN: I see. Is that why
15 you are pointing it out? Thank you
16 very much. You are not completely an
17 obstructionist all the time.
18 Thank you. We will be trying to
19 get that from Elise Cheney. I am sure
20 she will be very happy for me to ask
21 that question.
22 BY MR. FURMAN:
23 Q. By the way, I probably should have
24 asked you, did you read Mr. Bissonnette's
25 deposition transcript before today?

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1 Sevier
2 A. No. I have not seen it.
3 Q. Were you advised by anyone what he
4 testified to?
5 A. No.
6 Q. I don't know if you know this but
7 I will ask it. As of today how much has
8 been paid in royalties to Mr. Bissonnette?
9 A. I don't have that figure in front
10 of mind.
11 Q. Just so I know how to get the best
12 source of that information it would be Elise
13 Cheney would have that information?
14 A. Are you asking me?
15 Q. I am asking your lawyer but she
16 just nodded.
17 MS. FOLEY: Well, I didn't know
18 you were. I am not supposed to be
19 testifying.
20 MR. FURMAN: We are talking
21 about --
22 MS. FOLEY: The royalty
23 statements will say how much have been
24 attributed to the author.
25 MR. FURMAN: Got it. Okay.

BENJAMIN SEVIER
BISSONNETTE vs PODLASKI

January 06, 2017
153-156

<p style="text-align: right;">Page 153</p> <p>1 Sevier</p> <p>2 BY MR. FURMAN:</p> <p>3 Q. Now let me ask you about No Hero.</p> <p>4 That's a different book.</p> <p>5 I don't have the contract but is</p> <p>6 it generally the same format in terms of</p> <p>7 having a contract and the royalties being</p> <p>8 distributed based pursuant to a contract</p> <p>9 agreement with literary agent, the same</p> <p>10 mechanics apply for payment?</p> <p>11 A. The same mechanics but I will</p> <p>12 point out that the agreement is with the</p> <p>13 author and the accounting goes through the</p> <p>14 agent in most cases, yes. It is essentially</p> <p>15 the same.</p> <p>16 Q. With No Hero if we were to seek</p> <p>17 information relating to the book sales of</p> <p>18 that particular book, would the -- would</p> <p>19 that information be available through the</p> <p>20 literary agent as well as it is with No Easy</p> <p>21 Day?</p> <p>22 A. As far as I know. It should be</p> <p>23 the same.</p> <p>24 Q. Let me ask you about Kevin</p> <p>25 Podlaski. Did you ever meet him?</p>	<p style="text-align: right;">Page 155</p> <p>1 Sevier</p> <p>2 Q. Yes. From you dated June 28th,</p> <p>3 2012.</p> <p>4 A. I got it, yes.</p> <p>5 Q. At 11:04 and you are e-mailing</p> <p>6 Kevin Mauer, Elise Cheney, Mr. Bissonnette</p> <p>7 and Alex Jacobs.</p> <p>8 It says -- the subject is "Lawyer</p> <p>9 Edits."</p> <p>10 In the body of the e-mail you are</p> <p>11 referring to edits that I am presuming</p> <p>12 Mr. Podlaski had made and that you thought</p> <p>13 the lawyer had made a significant</p> <p>14 contribution. What did you mean by that?</p> <p>15 A. I frankly don't really remember.</p> <p>16 Q. Who is Alex Jacobs?</p> <p>17 A. He worked in Elise Cheney's</p> <p>18 office. I am not sure what his title was.</p> <p>19 Q. Did you receive during the course</p> <p>20 of the various edits to the book, did you</p> <p>21 receive copies of the evolving manuscript of</p> <p>22 No Easy Day from Kevin Mauer or from</p> <p>23 Mr. Bissonnette directly in 2012?</p> <p>24 A. Yes.</p> <p>25 Q. Did you -- I am mumbling. Cut my</p>
<p style="text-align: right;">Page 154</p> <p>1 Sevier</p> <p>2 A. No.</p> <p>3 Q. Do you know when he was hired?</p> <p>4 A. I don't specifically know.</p> <p>5 Q. Do you know -- strike that.</p> <p>6 Were you involved in the hiring of</p> <p>7 Kevin Podlaski in any way?</p> <p>8 A. No. Not really.</p> <p>9 Q. To the best of your knowledge who</p> <p>10 made the decision to hire him?</p> <p>11 A. To the best of my knowledge it was</p> <p>12 the author.</p> <p>13 Q. To the best of your knowledge who</p> <p>14 was Kevin Podlaski representing?</p> <p>15 A. Matt Bissonnette.</p> <p>16 Q. Anyone else?</p> <p>17 A. No. Not as far as I know.</p> <p>18 Q. In one of the e-mails I will refer</p> <p>19 you to Exhibit 108, if you could turn to</p> <p>20 page 78 there is an e-mail from you dated</p> <p>21 June 28th of 2012.</p> <p>22 MS. FOLEY: On page 78?</p> <p>23 MR. FURMAN: Yes, number 78.</p> <p>24 THE WITNESS: An e-mail from me?</p> <p>25 BY MR. FURMAN:</p>	<p style="text-align: right;">Page 156</p> <p>1 Sevier</p> <p>2 mumbles, right?</p> <p>3 Those various manuscripts</p> <p>4 contained the details of the raid, correct?</p> <p>5 A. Parts of them, yes.</p> <p>6 Q. Did you undertake any effort to</p> <p>7 maintain the confidentiality and the -- for</p> <p>8 lack of a better way of describing it the</p> <p>9 secrecy of that information on your computer</p> <p>10 or your server at Dutton?</p> <p>11 A. Not particularly.</p> <p>12 Q. Was that ever a consideration of</p> <p>13 yours?</p> <p>14 A. Inasmuch as I didn't send it to</p> <p>15 anyone other than the core group here who</p> <p>16 were involved in the producing of the book,</p> <p>17 yes, but beyond that I don't recall making</p> <p>18 any other special efforts.</p> <p>19 Q. Let me ask you about No Hero for a</p> <p>20 moment as a benchmark. Do you know what the</p> <p>21 gross sales were of No Hero?</p> <p>22 A. Not off the top of my head.</p> <p>23 Q. That information I can get from</p> <p>24 Elise Cheney?</p> <p>25 A. She should have it.</p>

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BISSONNETTE vs PODLASKI

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Page 157	Page 159
<p>1 Sevier</p> <p>2 Q. On the same document, 108 if you</p> <p>3 could turn to page 12.</p> <p>4 A. Okay.</p> <p>5 Q. There is an e-mail from you dated</p> <p>6 August 25th, 2012. And it is not clear to</p> <p>7 me who you are writing to. But I am</p> <p>8 assuming it includes Kevin Mauer, Kevin</p> <p>9 Podlaski, Elise Cheney, someone whose last</p> <p>10 name is Lehane, Peter Ragone and Christine</p> <p>11 Ball.</p> <p>12 Your e-mail at 12:06 states, "I</p> <p>13 think me, Mauer and Podlaski should review</p> <p>14 that call Christine and Mark have media</p> <p>15 training, let's divide and conquer. Kevin</p> <p>16 P. can you will call me and I will</p> <p>17 conference in Kevin."</p> <p>18 Do you see that?</p> <p>19 A. I do.</p> <p>20 Q. In response to Kevin Mauer's</p> <p>21 e-mail of that day where he is in a</p> <p>22 different time zone presuming, he is saying</p> <p>23 "I had a much longer talk with JSOC about</p> <p>24 concerns. If you guys want to set up a call</p> <p>25 to review or if you want me to just call</p>	<p>1 Sevier</p> <p>2 Q. And at this moment you don't</p> <p>3 recall what Kevin Mauer told you about his</p> <p>4 conversations with someone at JSOC?</p> <p>5 A. Not specifically. He was talking</p> <p>6 to a contact there who he knew and had known</p> <p>7 for some years who must have told him</p> <p>8 something that they were talking about or</p> <p>9 thinking about or wanted to communicate to</p> <p>10 Matt and to us but sitting here now I can't</p> <p>11 recall what that was.</p> <p>12 Q. Before August 25th of 2012 did</p> <p>13 anyone, Dutton or Elise Cheney, or the</p> <p>14 author, release copies, advanced copies of</p> <p>15 the book to various media agencies and</p> <p>16 government officials?</p> <p>17 A. Prior to 8/25?</p> <p>18 Q. Yes.</p> <p>19 A. Yes.</p> <p>20 Q. Do you know when that took place?</p> <p>21 A. Not specifically except that prior</p> <p>22 to the end of August we were in conversation</p> <p>23 with and had proceeded down the path with 60</p> <p>24 Minutes towards the interview that</p> <p>25 eventually aired with Matt and as a part of</p>
Page 158	Page 160
<p>1 Sevier</p> <p>2 Kevin. I have spoken to MO about it. Let</p> <p>3 me know."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. What is the -- what was Kevin</p> <p>7 Mauer talking about, what is "JSOC"?</p> <p>8 A. JSOC stands for Joint Special</p> <p>9 Operations Command.</p> <p>10 Q. What concerns did Kevin Mauer</p> <p>11 address with you?</p> <p>12 A. I don't remember if I ever knew.</p> <p>13 I guess I must have if we had this call but</p> <p>14 I don't recall.</p> <p>15 Q. You don't remember any of the</p> <p>16 details of the call?</p> <p>17 A. Kevin's call with JSOC I obviously</p> <p>18 wasn't on it. The call that we had after</p> <p>19 that it is referred to in the 1206 e-mail?</p> <p>20 Q. Yes.</p> <p>21 A. I can't recall specifically what</p> <p>22 their concerns with on August 25th.</p> <p>23 Q. It had presumably something to do</p> <p>24 with the book?</p> <p>25 A. I think that is fair.</p>	<p>1 Sevier</p> <p>2 that at some point they signed a</p> <p>3 nondisclosure agreement and received a copy</p> <p>4 of the manuscript.</p> <p>5 Q. Was that before or after</p> <p>6 August 1st of 2012?</p> <p>7 A. I can't say for sure.</p> <p>8 Q. Was it before -- I am just using</p> <p>9 benchmarks as a way to remember, before or</p> <p>10 after July 4th of 2012?</p> <p>11 A. It would have been after July 4th,</p> <p>12 2012.</p> <p>13 Q. So at some point during that</p> <p>14 summer, after the July 4th weekend let's</p> <p>15 call it of 2012 and at some point before</p> <p>16 August 25th of 2012 you had released a copy</p> <p>17 of the manuscript to 60 Minutes pursuant to</p> <p>18 a nondisclosure agreement?</p> <p>19 A. That is my memory.</p> <p>20 Q. Why a nondisclosure agreement?</p> <p>21 A. We did not want them to report on</p> <p>22 the book before a date that we mutually</p> <p>23 agreed on.</p> <p>24 Q. Why?</p> <p>25 A. Because we wanted the publicity</p>

BENJAMIN SEVIER
BISSENETTE vs PODLASKI

January 06, 2017
161-164

<p style="text-align: right;">Page 161</p> <p>1 Sevier</p> <p>2 around this book and the story about this</p> <p>3 book that happened in the media, whatever it</p> <p>4 was to happen at the same time as the</p> <p>5 publication of the book.</p> <p>6 Q. So you wanted to control the story</p> <p>7 and control the timing of the release of the</p> <p>8 book essentially?</p> <p>9 A. That's right.</p> <p>10 Q. Obviously it is for commercial</p> <p>11 reasons, correct?</p> <p>12 A. Right.</p> <p>13 Q. The book was released to various</p> <p>14 government agencies as you are aware,</p> <p>15 correct?</p> <p>16 A. I am aware of it being passed by</p> <p>17 the author through the co-author, Kevin</p> <p>18 Mauer, to one contact in the government.</p> <p>19 Q. Who was that contact?</p> <p>20 A. I don't know his name or if I did</p> <p>21 know it I have forgotten it.</p> <p>22 It was somebody who Kevin Mauer,</p> <p>23 the co-writer, had worked with in a public</p> <p>24 affairs office in one of the branches of the</p> <p>25 military.</p>	<p style="text-align: right;">Page 163</p> <p>1 Sevier</p> <p>2 decision was made.</p> <p>3 Q. This is obviously several weeks</p> <p>4 before the publication date of</p> <p>5 September 4th, 2012, right?</p> <p>6 A. Right.</p> <p>7 Q. Why was the book released at least</p> <p>8 in this one form to Kevin Mauer's contact</p> <p>9 who worked in public affairs for some</p> <p>10 undescribed government agency?</p> <p>11 A. It was at the author, Matt's,</p> <p>12 request as I recall.</p> <p>13 Q. Do you know why Mr. Bissonnette</p> <p>14 asked for this?</p> <p>15 MS. FOLEY: Object to the form.</p> <p>16 THE WITNESS: I think it was</p> <p>17 because he wanted to give his former</p> <p>18 colleagues a heads-up as to what was</p> <p>19 coming.</p> <p>20 BY MR. FURMAN:</p> <p>21 Q. Why -- to your knowledge why was</p> <p>22 that necessary, why was a heads-up</p> <p>23 necessary?</p> <p>24 A. As far as I know it was just Matt</p> <p>25 wanting to play it straight with his former</p>
<p style="text-align: right;">Page 162</p> <p>1 Sevier</p> <p>2 Q. So it was just one contact person</p> <p>3 that received a copy, an advanced copy of</p> <p>4 the book through Kevin Mauer?</p> <p>5 A. As far as I can remember.</p> <p>6 Q. Was this part of a strategy that</p> <p>7 was devised by Dutton along with Christine</p> <p>8 Ball to release advanced copies of the book?</p> <p>9 MS. FOLEY: By "this" you mean</p> <p>10 the release to the contact in the</p> <p>11 government --</p> <p>12 MR. FURMAN: Right, yes.</p> <p>13 MS. FOLEY: -- was it part of</p> <p>14 the Dutton media strategy?</p> <p>15 MR. FURMAN: Correct.</p> <p>16 THE WITNESS: No.</p> <p>17 BY MR. FURMAN:</p> <p>18 Q. Was this something that was just</p> <p>19 done by Kevin Mauer without your knowledge?</p> <p>20 A. No. We knew it was going to</p> <p>21 happen.</p> <p>22 Q. Did you object to it in any form</p> <p>23 or another?</p> <p>24 A. Ultimately, no. I can't recall</p> <p>25 what the discussions were before the</p>	<p style="text-align: right;">Page 164</p> <p>1 Sevier</p> <p>2 unit and not ambush them or surprise them.</p> <p>3 Q. Did Matt tell you that publishing</p> <p>4 the book without a heads-up was some sort of</p> <p>5 ambush to his colleagues?</p> <p>6 A. He didn't. Those are my words,</p> <p>7 not his.</p> <p>8 I don't recall his specific words</p> <p>9 but the way I understood it then, he had</p> <p>10 relationships, basic human relationships</p> <p>11 with former colleagues and friends who were</p> <p>12 in that community and he thought he was</p> <p>13 doing the decent thing by giving them a</p> <p>14 heads-up.</p> <p>15 Q. So I want to understand why that</p> <p>16 is a decent thing to do.</p> <p>17 What was the concern that you</p> <p>18 understood from Matt Bissonnette's</p> <p>19 perspective as to the publication of a story</p> <p>20 about the killing of bin Laden?</p> <p>21 MS. FOLEY: Object to the form</p> <p>22 of the question. And asked and</p> <p>23 answered.</p> <p>24 THE WITNESS: There are some</p> <p>25 people in my experience in that</p>

BENJAMIN SEVIER
 BISSENETTE vs PODLASKI

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 165-168

<p style="text-align: right;">Page 165</p> <p>1 Sevier</p> <p>2 community of special operators who</p> <p>3 don't think it is the right thing to</p> <p>4 do, to write books about your past war</p> <p>5 experiences.</p> <p>6 There are many others who do</p> <p>7 just that and there are countless</p> <p>8 dozens, hundreds even, maybe thousands</p> <p>9 of books by former special operators</p> <p>10 of various kinds and the tension</p> <p>11 between those two groups of people</p> <p>12 within that community is something</p> <p>13 that I think Matt was aware of and</p> <p>14 wanted to manage for his own personal</p> <p>15 reasons.</p> <p>16 You would have to ask him for</p> <p>17 any detail beyond that, I think.</p> <p>18 BY MR. FURMAN:</p> <p>19 Q. Are you aware that various</p> <p>20 branches of the government eventually</p> <p>21 received advanced copies of No Easy Day</p> <p>22 before the publication date of</p> <p>23 September 4th, 2012?</p> <p>24 MS. FOLEY: Object to the form</p> <p>25 of the question.</p>	<p style="text-align: right;">Page 167</p> <p>1 Sevier</p> <p>2 it looks like and what it spells out in the</p> <p>3 document. We made a publishing decision at</p> <p>4 some point before this release was written</p> <p>5 to change the publication date from the 11th</p> <p>6 to the 4th and we put out a statement to</p> <p>7 that effect.</p> <p>8 Q. Who -- this is -- was -- sorry.</p> <p>9 Was this Christine Ball's</p> <p>10 responsibility to deal with the media?</p> <p>11 A. Yes.</p> <p>12 Q. Would she have sought your</p> <p>13 approval before any information is released</p> <p>14 about the book?</p> <p>15 A. She would have sought my input is</p> <p>16 the way I would put it, yes.</p> <p>17 Q. I appreciate the fact that your</p> <p>18 approval may not have been necessary. You</p> <p>19 would have had knowledge of it before it</p> <p>20 went out?</p> <p>21 A. Yes.</p> <p>22 Q. There is a reference at the very</p> <p>23 end of the statement that says, "Since it</p> <p>24 was announced on August 22nd No Easy Day has</p> <p>25 skyrocketed to number 1 at Amazon and Barnes</p>
<p style="text-align: right;">Page 166</p> <p>1 Sevier</p> <p>2 THE WITNESS: I saw that written</p> <p>3 in media. I have no reason to believe</p> <p>4 it was true or not true.</p> <p>5 I am aware that the Department</p> <p>6 of Justice or whoever it is that Jeh</p> <p>7 Johnson represented at that time seems</p> <p>8 to have been in receipt of a copy of</p> <p>9 it since you referenced it I think in</p> <p>10 that letter that was sent on</p> <p>11 August 30th.</p> <p>12 Beyond that I don't have any</p> <p>13 specific memory or knowledge that I</p> <p>14 can think of other government agencies</p> <p>15 having it before publication.</p> <p>16 BY MR. FURMAN:</p> <p>17 Q. Now, if you could turn to page 45</p> <p>18 of Exhibit 108, in your e-mail dated</p> <p>19 August 28th of 2012 it is addressed to Kevin</p> <p>20 Podlaski, it contains what was shared and I</p> <p>21 believe it was shared with the media, I am</p> <p>22 assuming that -- actually rather than me</p> <p>23 assuming, why don't you let me know what</p> <p>24 happened here.</p> <p>25 A. Well, I think it is exactly what</p>	<p style="text-align: right;">Page 168</p> <p>1 Sevier</p> <p>2 & Noble and garnered increased orders from</p> <p>3 accounts across the country."</p> <p>4 Do you see that?</p> <p>5 A. I do.</p> <p>6 Q. What announcement was made and how</p> <p>7 was that done on August 22nd?</p> <p>8 A. My memory is that Dutton worked</p> <p>9 with a reporter at the New York Times, the</p> <p>10 media reporter at the New York Times, to</p> <p>11 announce the book. That is my memory.</p> <p>12 Q. Was there push back after the book</p> <p>13 was announced that you are aware of?</p> <p>14 MS. FOLEY: Object to the form.</p> <p>15 THE WITNESS: From who? What do</p> <p>16 you mean by "push back"?</p> <p>17 BY MR. FURMAN:</p> <p>18 Q. So let me explain what I mean by</p> <p>19 "push back."</p> <p>20 Were you aware that there were</p> <p>21 some indications from media sources that the</p> <p>22 government was unhappy with the fact that</p> <p>23 Mr. Bissonnette was writing a book about the</p> <p>24 killing of bin Laden?</p> <p>25 A. I saw it reported in the media</p>

**BENJAMIN SEVIER
BISSONNETTE vs PODLASKI**

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169-172

<p style="text-align: right;">Page 169</p> <p>1 Sevier</p> <p>2 that certain members of the government in</p> <p>3 many cases as I recall unnamed sources had</p> <p>4 questions and were unhappy about it</p> <p>5 generally. I think that is a fair</p> <p>6 statement.</p> <p>7 Q. That was in the days that led up</p> <p>8 to the August 30th letter from Jeh Johnson,</p> <p>9 correct?</p> <p>10 A. I think that is right.</p> <p>11 MS. FOLEY: Object to the form</p> <p>12 of the question.</p> <p>13 BY MR. FURMAN:</p> <p>14 Q. To the best of your memory I</p> <p>15 suppose or knowledge when did the first</p> <p>16 indication come in that there was going to</p> <p>17 be some unhappiness with -- from the</p> <p>18 government with Mr. Bissonnette's book No</p> <p>19 Easy Day?</p> <p>20 A. I am sorry. Is the question when</p> <p>21 was the first indication?</p> <p>22 Q. What was the first indication you</p> <p>23 had?</p> <p>24 A. I think it was e-mails from</p> <p>25 journalists around that time.</p>	<p style="text-align: right;">Page 171</p> <p>1 Sevier</p> <p>2 obligations to the government?</p> <p>3 A. I remember it generally as being</p> <p>4 whatever government officials he was</p> <p>5 speaking to. I can't recall if it was the</p> <p>6 Department of Defense but, yes, the nature</p> <p>7 of his e-mails were citing those kinds of</p> <p>8 conversations that he was having.</p> <p>9 Q. If you could turn to page 51 of</p> <p>10 Exhibit 108, I am referring now to the</p> <p>11 e-mail at the bottom, it is your e-mail to</p> <p>12 Mr. Podlaski dated August 29th of, 2012.</p> <p>13 The subject is "NED," all caps,</p> <p>14 "NED Developments 8/29."</p> <p>15 There is -- there is three bullet</p> <p>16 points on this e-mail.</p> <p>17 The first bullet point says "We</p> <p>18 learned off the record from an AP reporter</p> <p>19 last night that they had it from a DOD</p> <p>20 source that DOD would not seek an</p> <p>21 injunction."</p> <p>22 Can you tell me who that source</p> <p>23 was?</p> <p>24 A. No.</p> <p>25 Q. Do you recall how you learned that</p>
<p style="text-align: right;">Page 170</p> <p>1 Sevier</p> <p>2 Q. There was a journalist called Mark</p> <p>3 Hosenball. Do you remember him?</p> <p>4 A. I do.</p> <p>5 Q. Do you know Mr. Hosenball?</p> <p>6 A. I do not.</p> <p>7 Q. How do you know of him?</p> <p>8 A. I became aware of him at that time</p> <p>9 when he started e-mailing us with questions</p> <p>10 about this breaking news story.</p> <p>11 Q. Who does he work for or what did</p> <p>12 he work for at the time?</p> <p>13 A. It was one of the wire services.</p> <p>14 I can't remember if it was Associated Press</p> <p>15 or one of the other ones.</p> <p>16 Q. Do you recall that in the e-mails</p> <p>17 that Mr. Hosenball had sent to various</p> <p>18 people that were connected with Dutton, I</p> <p>19 think Mr. Ragone might have been on some of</p> <p>20 them, you may have been at some point</p> <p>21 receiving them, either forwarded or</p> <p>22 directly, do you recall that Mr. Hosenball</p> <p>23 was commenting that the Department of</p> <p>24 Defense was unhappy that Mr. Bissonnette was</p> <p>25 writing a book and that he was violating his</p>	<p style="text-align: right;">Page 172</p> <p>1 Sevier</p> <p>2 information?</p> <p>3 A. Not specifically.</p> <p>4 Q. There is a reference to the royal</p> <p>5 "we" so was it you or was it someone on your</p> <p>6 team that learned this information?</p> <p>7 A. It was most likely someone else on</p> <p>8 my team who would have conveyed it to me.</p> <p>9 Q. Why were you telling Mr. Podlaski</p> <p>10 that?</p> <p>11 A. It looks to me like these bullet</p> <p>12 points in my e-mail were about legal reports</p> <p>13 or the reports in the media about our</p> <p>14 author's legal exposure which is Kevin</p> <p>15 Podlaski's area of interest in this team so</p> <p>16 it looks to me like I was just reporting on</p> <p>17 what I knew.</p> <p>18 And then it also looks like I had</p> <p>19 a question at the bottom.</p> <p>20 Q. Now the second bullet point says</p> <p>21 that, "The book was the lead news item on</p> <p>22 the Today Show." And that the reporter</p> <p>23 whose last name I won't try to pronounce</p> <p>24 "Reported that the DOD confirms that there</p> <p>25 is no classified information in the book.</p>

BENJAMIN SEVIER
BISSONNETTE vs PODLASKI

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<p style="text-align: right;">Page 173</p> <p>1 Sevier</p> <p>2 But that there may be some Navy Seal tactics</p> <p>3 described."</p> <p>4 Do you see that?</p> <p>5 A. I do.</p> <p>6 Q. How did you learn that</p> <p>7 information?</p> <p>8 A. By watching The Today Show.</p> <p>9 Q. So you saw Jim M. speak on this?</p> <p>10 A. Mikleshevski, yes, I did.</p> <p>11 Q. You must know the guy.</p> <p>12 A. He is the Pentagon reporter at NBC</p> <p>13 for years.</p> <p>14 Q. So you basically watched it like</p> <p>15 our current President-elect watches the news</p> <p>16 and talks about it?</p> <p>17 A. Exactly. We are very similar.</p> <p>18 Q. I am very up front I do recognize.</p> <p>19 The third bullet point, "The book</p> <p>20 has now been purchased at a bookstore in</p> <p>21 defiance of our strict on sale date and</p> <p>22 media embargo."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Can you tell me what the "strict</p>	<p style="text-align: right;">Page 175</p> <p>1 Sevier</p> <p>2 you referred to earlier and then it would</p> <p>3 have been communicated to our customers by</p> <p>4 the sales reps who work in the offices.</p> <p>5 Q. There was an original September 11</p> <p>6 on sale date, correct?</p> <p>7 A. That's right.</p> <p>8 Q. When -- who devised the</p> <p>9 September 11 on sale date?</p> <p>10 MS. FOLEY: Asked and answered.</p> <p>11 MR. FURMAN: We never used the</p> <p>12 word "on sale date" so I have to tell</p> <p>13 you you are wrong.</p> <p>14 I don't mind your objection but</p> <p>15 you are wrong. You got to give me a</p> <p>16 break here.</p> <p>17 MR. JOHNSTON: I will take the</p> <p>18 matter under advisement.</p> <p>19 MS. FOLEY: Let me clarify for</p> <p>20 the record.</p> <p>21 Do you use the term "publication</p> <p>22 date" and "on sale date" synonymously?</p> <p>23 THE WITNESS: Yes, I do.</p> <p>24 MR. FURMAN: Well, I didn't know</p> <p>25 that. So give me a break. All right.</p>
<p style="text-align: right;">Page 174</p> <p>1 Sevier</p> <p>2 on sale date and media embargo" means?</p> <p>3 A. There are historically two</p> <p>4 different kind of on sale dates that</p> <p>5 publishers use.</p> <p>6 One is referred to often as a soft</p> <p>7 lay down or simply an on sale date as</p> <p>8 opposed to a strict on sale date. And that</p> <p>9 means by agreement with our customers,</p> <p>10 bookstores and retailers that once they</p> <p>11 receive the books they are permitted to put</p> <p>12 them out on the shelves on their schedule.</p> <p>13 A strict on sale date is the</p> <p>14 opposite of that. What it sounds like. By</p> <p>15 agreement our customers, the retailers, are</p> <p>16 not allowed per our agreement to put the</p> <p>17 book out until the on sale date.</p> <p>18 Q. What was the strict on sale date</p> <p>19 for No Easy Day?</p> <p>20 A. By Wednesday, August 29th it was 9</p> <p>21 to 4 -- by Wednesday, August 29th, it was</p> <p>22 September 4th.</p> <p>23 Q. How did you communicate that</p> <p>24 strict on sale date?</p> <p>25 A. Well, in the press release that</p>	<p style="text-align: right;">Page 176</p> <p>1 Sevier</p> <p>2 BY MR. FURMAN:</p> <p>3 Q. Okay. So let's move on from all</p> <p>4 the lawyer hijinks and I need an answer.</p> <p>5 MS. FOLEY: What is the</p> <p>6 question?</p> <p>7 THE WITNESS: What is the</p> <p>8 question?</p> <p>9 (Record read)</p> <p>10 THE WITNESS: All of us on the</p> <p>11 publication team in consultation with</p> <p>12 the author and his representatives.</p> <p>13 BY MR. FURMAN:</p> <p>14 Q. So I want to make sure that we are</p> <p>15 all on the same page here.</p> <p>16 When you refer to "publication</p> <p>17 date," that is synonymous in your mind with</p> <p>18 "on sale date"?</p> <p>19 A. Yes. I am trying to think of a</p> <p>20 circumstance in which they don't mean the</p> <p>21 same thing and nothing comes to mind right</p> <p>22 now.</p> <p>23 Q. There came a point in time when</p> <p>24 the September 11 date then moved to</p> <p>25 September 4, right?</p>

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<p style="text-align: right;">Page 177</p> <p>1 Sevier</p> <p>2 A. Right.</p> <p>3 Q. Who made that decision?</p> <p>4 A. The same group of people in the</p> <p>5 same consultation with the author and his</p> <p>6 representatives.</p> <p>7 Q. When was that decision made?</p> <p>8 A. I believe it was either Friday or</p> <p>9 Monday just prior to these e-mails that you</p> <p>10 are pointing out to me so that without a</p> <p>11 calendar in front of me I -- I think it was</p> <p>12 either -- actually, let me think.</p> <p>13 Yes. I think it was either the</p> <p>14 very end of the week or the very beginning</p> <p>15 of the following week right around here so</p> <p>16 that would have been the 27th or the 24th.</p> <p>17 I can't recall specifically.</p> <p>18 Q. Why was the publication or on sale</p> <p>19 date changed to September 4?</p> <p>20 A. Because news of the book had</p> <p>21 broken that media moment that we referred to</p> <p>22 earlier that we were hoping to control was</p> <p>23 now happening whatever this is about two</p> <p>24 weeks, two-and-a-half weeks before the</p> <p>25 planned publication date and since media</p>	<p style="text-align: right;">Page 179</p> <p>1 Sevier</p> <p>2 Q. Is there a person that was in</p> <p>3 charge of that at Penguin during this time</p> <p>4 in August of 2012?</p> <p>5 A. Our sales director at that time</p> <p>6 was a man named Dick Heffernan.</p> <p>7 Q. Dick Heffernan. Mr. -- is</p> <p>8 Mr. Heffernan still at Penguin?</p> <p>9 A. No.</p> <p>10 Q. Do you know when he left?</p> <p>11 A. Within the last few years. He has</p> <p>12 been gone, I don't know, two or three years,</p> <p>13 he retired.</p> <p>14 Q. Do you recall who on the team that</p> <p>15 was involved with No Easy Day communicated</p> <p>16 to Mr. Heffernan the change in the</p> <p>17 publication/on sale date?</p> <p>18 A. He would have been involved in the</p> <p>19 decision so it would have been -- I am not</p> <p>20 sure how to answer that question other than</p> <p>21 he was on the team who was thinking about</p> <p>22 whether this was a good idea and would have</p> <p>23 helped make the decision.</p> <p>24 Q. To the best of your knowledge how</p> <p>25 would Mr. Heffernan communicate that change</p>
<p style="text-align: right;">Page 178</p> <p>1 Sevier</p> <p>2 publicity and exposure are really</p> <p>3 significant factors, in fact, the most</p> <p>4 significant factors in selling a book like</p> <p>5 this we needed the book to be on sale as</p> <p>6 close to the media moment as possible.</p> <p>7 Q. So when you effectuate the change</p> <p>8 in the publication/on sale date, you would</p> <p>9 communicate that change in the date to the</p> <p>10 sales reps at Dutton?</p> <p>11 A. Right. The Penguin sales reps.</p> <p>12 Q. The Penguin sales reps. How many</p> <p>13 are there?</p> <p>14 A. Embarrassingly I am not sure I can</p> <p>15 even ballpark that. Off the top of my head,</p> <p>16 50 people who would have been notified.</p> <p>17 Q. How did you communicate that</p> <p>18 directive? Was it a phone call, was it an</p> <p>19 e-mail?</p> <p>20 A. I wouldn't have been the one to</p> <p>21 communicate it so I don't know exactly.</p> <p>22 Q. Who would have communicated that</p> <p>23 directive?</p> <p>24 A. It would have been the leadership</p> <p>25 in the sales department at Penguin.</p>	<p style="text-align: right;">Page 180</p> <p>1 Sevier</p> <p>2 in that audible to the sales rep to change</p> <p>3 the publication/on sale date from</p> <p>4 September 11 to September 4?</p> <p>5 A. I don't know what the regular</p> <p>6 practices were for how they do that.</p> <p>7 Q. If I needed to find that out who</p> <p>8 would I ask?</p> <p>9 A. I guess you could ask Dick.</p> <p>10 Q. Do you know where Dick is? It</p> <p>11 sounds like he is retired.</p> <p>12 A. That is pretty much all I know.</p> <p>13 Q. He is on a beach somewhere in</p> <p>14 Miami?</p> <p>15 A. Let's hope.</p> <p>16 Q. Who is now in charge of the media</p> <p>17 department, who has taken Dick's place at</p> <p>18 Penguin?</p> <p>19 A. That is a tough question because</p> <p>20 we merged with another company in the</p> <p>21 interim and the structure of the sales</p> <p>22 department is completely different.</p> <p>23 I am not sure there is an exactly</p> <p>24 equivalent position to Dick's. He was the</p> <p>25 hardcover sales director at that time. We</p>

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<p style="text-align: right;">Page 181</p> <p>1 Sevier</p> <p>2 don't have any such position now.</p> <p>3 Q. The reason I am asking these</p> <p>4 questions is I would like to get if it</p> <p>5 exists a copy of Mr. Heffernan's e-mails if</p> <p>6 he has them that relate to the change in the</p> <p>7 on sale/publication date from September 11</p> <p>8 to September 4 and how he communicated that</p> <p>9 to his sales reps. That is what I would</p> <p>10 like. But you can't always get what you</p> <p>11 would like, you know.</p> <p>12 So I want to know how I can do</p> <p>13 that if it is possible and do you know how I</p> <p>14 would do that?</p> <p>15 A. I guess you would have to consult</p> <p>16 the documentary record or talk to someone</p> <p>17 who was involved in that process.</p> <p>18 Q. How would I find that out who was</p> <p>19 involved in that process other than Dick</p> <p>20 Heffernan?</p> <p>21 A. You would have to do some</p> <p>22 research, talk to someone perhaps who is in</p> <p>23 that department now and ask them to figure</p> <p>24 out if there is any record of that.</p> <p>25 I can't think of any other easy</p>	<p style="text-align: right;">Page 183</p> <p>1 Sevier</p> <p>2 idea.</p> <p>3 Q. Okay. And on -- you pointed this</p> <p>4 out to me so I will ask the question.</p> <p>5 You had asked Mr. Podlaski to</p> <p>6 comment on Navy Seal tactics from an NBC</p> <p>7 comment.</p> <p>8 Do you see that?</p> <p>9 A. I do.</p> <p>10 Q. Did you read his response?</p> <p>11 A. I am sure I did then. I will read</p> <p>12 it again now.</p> <p>13 Okay.</p> <p>14 Q. In your response after having read</p> <p>15 that was it you didn't think it would amount</p> <p>16 to much, you said that in your e-mail</p> <p>17 response to him on that day?</p> <p>18 A. It looks like it, yes.</p> <p>19 Q. Do you feel that way today?</p> <p>20 A. Yes. I am no expert but that is</p> <p>21 my -- that is how I feel.</p> <p>22 Q. Just getting back to</p> <p>23 Mr. Heffernan, do you know who he reported</p> <p>24 to, who his supervisors were at the time in</p> <p>25 2012?</p>
<p style="text-align: right;">Page 182</p> <p>1 Sevier</p> <p>2 way to do it.</p> <p>3 Q. We will -- that is a homework</p> <p>4 assignment for us. I appreciate that.</p> <p>5 But to the best of your knowledge</p> <p>6 Mr. Heffernan communicated to the sales reps</p> <p>7 the change in the publication/on sale -- on</p> <p>8 sale date to the sales reps?</p> <p>9 MS. FOLEY: Object to the form</p> <p>10 of the question.</p> <p>11 BY MR. FURMAN:</p> <p>12 Q. In one form or another the message</p> <p>13 was communicated to the sales reps that the</p> <p>14 date of publication and on sale date</p> <p>15 changed -- had changed to September 4th?</p> <p>16 A. Yes. That had to have happened.</p> <p>17 Q. Okay. And you are aware that it</p> <p>18 did, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know how the sales reps</p> <p>21 communicate that to the various retailers?</p> <p>22 A. Not specifically beyond that it is</p> <p>23 through however whatever means they usually</p> <p>24 speak with their counterparts at the</p> <p>25 retailers, telephone, e-mail, I have no</p>	<p style="text-align: right;">Page 184</p> <p>1 Sevier</p> <p>2 A. I don't really remember. He may</p> <p>3 have reported to David Shanks who was our</p> <p>4 CEO.</p> <p>5 Q. I don't know if I have a copy of</p> <p>6 it here but it is certainly a letter you</p> <p>7 received.</p> <p>8 I will refer you to the Jeh</p> <p>9 Johnson letter dated August 30th of 2012. I</p> <p>10 think I have a copy of it here. If I</p> <p>11 don't -- here we are. Great memories for</p> <p>12 everyone.</p> <p>13 It is Exhibit Number 1 of all</p> <p>14 things. Right here it is. Everyone's</p> <p>15 favorite letter.</p> <p>16 MS. HIROSE: Thanks.</p> <p>17 BY MR. FURMAN:</p> <p>18 Q. Do you remember the day that you</p> <p>19 received the letter?</p> <p>20 A. Yes.</p> <p>21 Q. How did you get it? Was it by</p> <p>22 fax, someone delivered it to your office,</p> <p>23 how did you get the letter?</p> <p>24 MS. FOLEY: Object to the form</p> <p>25 of the question.</p>

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<p style="text-align: right;">Page 185</p> <p>1 Sevier</p> <p>2 THE WITNESS: The first time I</p> <p>3 saw a copy of it was that evening of</p> <p>4 August 30th after I had gotten home</p> <p>5 from work someone called me, I forget</p> <p>6 at this point who it was to say that a</p> <p>7 letter had appeared in the media that</p> <p>8 was addressed to our author.</p> <p>9 So the first time I saw it I</p> <p>10 think was online on a news report that</p> <p>11 evening.</p> <p>12 BY MR. FURMAN:</p> <p>13 Q. What did you do after you saw it</p> <p>14 online?</p> <p>15 A. I don't remember exactly. But I</p> <p>16 know I spoke with my publisher and with</p> <p>17 Christine Ball, our associate publisher, and</p> <p>18 with Elise Cheney, essentially spoke with</p> <p>19 the team to try to make heads or tails of</p> <p>20 this letter.</p> <p>21 Q. At a point in time a lawyer named</p> <p>22 Robert Luskin came into the picture. You</p> <p>23 know who Robert Luskin is?</p> <p>24 A. Yes.</p> <p>25 Q. You met him, correct?</p>	<p style="text-align: right;">Page 187</p> <p>1 Sevier</p> <p>2 I think it was one of the two of them but I</p> <p>3 don't know for sure.</p> <p>4 Q. Peter Ragone is a publicist,</p> <p>5 correct?</p> <p>6 A. I think he is a lawyer.</p> <p>7 Q. Who does he work for?</p> <p>8 A. The last I heard he worked for the</p> <p>9 DiBlasio administration.</p> <p>10 Q. Who did he work for in August of</p> <p>11 2012?</p> <p>12 A. I don't know who -- he was</p> <p>13 associated with a PR firm, a firm that</p> <p>14 included a guy named Mark Fabiani and a guy</p> <p>15 named Lehane, I forget Mr. Lehane's first</p> <p>16 name. I think that firm was called Fabiani</p> <p>17 & Lehane or something like that but I am not</p> <p>18 sure.</p> <p>19 Q. Who hired Fabiani & Lehane?</p> <p>20 A. I think it was Dutton.</p> <p>21 Q. Did Fabiani, Lehane and Mr. Ragone</p> <p>22 all work together on No Easy Day?</p> <p>23 MS. FOLEY: Object to the form</p> <p>24 of the question.</p> <p>25 THE WITNESS: What I recall is</p>
<p style="text-align: right;">Page 186</p> <p>1 Sevier</p> <p>2 A. I don't know that I ever met him</p> <p>3 in person that I can recall.</p> <p>4 Q. I assume you did.</p> <p>5 You corresponded with him</p> <p>6 obviously by e-mail. I certainly have seen</p> <p>7 that.</p> <p>8 A. Yes.</p> <p>9 Q. Did you ever talk to him on the</p> <p>10 phone?</p> <p>11 A. I was on conference calls that he</p> <p>12 was on.</p> <p>13 Q. When did he first come into the</p> <p>14 picture?</p> <p>15 A. I believe it was, the morning</p> <p>16 after this letter so that would have been if</p> <p>17 my memory serves Friday morning,</p> <p>18 August 31st.</p> <p>19 Q. How did he come into the picture</p> <p>20 to your knowledge?</p> <p>21 A. He was hired by the author.</p> <p>22 Q. Do you know how the author found</p> <p>23 him?</p> <p>24 A. I think that he was referred by</p> <p>25 either Elise Cheney or the -- Peter Ragone.</p>	<p style="text-align: right;">Page 188</p> <p>1 Sevier</p> <p>2 Fabiani being involved and Ragone</p> <p>3 being involved. I don't recall Lehane</p> <p>4 being involved.</p> <p>5 BY MR. FURMAN:</p> <p>6 Q. What did Fabiani and Ragone do for</p> <p>7 Dutton?</p> <p>8 A. They advised us on how to deal</p> <p>9 with the media and they advised the author</p> <p>10 on something.</p> <p>11 Q. Is Mr. Fabiani a lawyer?</p> <p>12 A. I think so but I don't -- you</p> <p>13 would have to confirm that.</p> <p>14 Q. You testified that Mr. Ragone is a</p> <p>15 lawyer?</p> <p>16 A. That is my understanding.</p> <p>17 Q. Were they providing legal advice</p> <p>18 to Dutton?</p> <p>19 MS. FOLEY: Object to the form</p> <p>20 of the question. Lack of foundation.</p> <p>21 THE WITNESS: Sorry. Can you</p> <p>22 ask the question again?</p> <p>23 BY MR. FURMAN:</p> <p>24 Q. Did Fabiani and Ragone provide</p> <p>25 legal services to Dutton in connection with</p>

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<p style="text-align: right;">Page 189</p> <p>1 Sevier</p> <p>2 No Easy Day?</p> <p>3 MS. FOLEY: To the extent you</p> <p>4 know.</p> <p>5 THE WITNESS: To the extent that</p> <p>6 I know?</p> <p>7 MS. FOLEY: To the extent you</p> <p>8 know you can answer.</p> <p>9 THE WITNESS: I don't. I don't</p> <p>10 think so.</p> <p>11 BY MR. FURMAN:</p> <p>12 Q. Assume that every question I ask</p> <p>13 you today is to the extent that you know.</p> <p>14 That is a safe assumption because if you</p> <p>15 don't know something you will tell me you</p> <p>16 don't know, right?</p> <p>17 A. Yes.</p> <p>18 Q. So he understands that. I think</p> <p>19 we all understand. I am asking you</p> <p>20 questions. You will tell me if you know.</p> <p>21 Have -- who at Dutton hired</p> <p>22 Fabiani and Ragone?</p> <p>23 A. I don't know the answer to that</p> <p>24 question in terms of who.</p> <p>25 Q. Did you do it?</p>	<p style="text-align: right;">Page 191</p> <p>1 Sevier</p> <p>2 that fair to say?</p> <p>3 MR. JOHNSTON: Object to the</p> <p>4 form of the question.</p> <p>5 THE WITNESS: What I meant by</p> <p>6 "firestorm" was all of the questions</p> <p>7 we were getting from the media about</p> <p>8 all aspects of the announcement of</p> <p>9 this publication and Matt having</p> <p>10 written the book.</p> <p>11 BY MR. FURMAN:</p> <p>12 Q. What about Matt having written the</p> <p>13 book was as you described it a firestorm?</p> <p>14 A. Sorry?</p> <p>15 Q. What about Matt's writing of the</p> <p>16 book leads you to describe it as a</p> <p>17 firestorm?</p> <p>18 A. I described the media, the media</p> <p>19 sort of response as a firestorm. What I</p> <p>20 mean by that is beyond the typical response</p> <p>21 from media to a book publication.</p> <p>22 There were questions coming from</p> <p>23 Mark Hosenball, the journalist who you</p> <p>24 referred to earlier, and others, relating to</p> <p>25 our author's legal exposure and, frankly, it</p>
<p style="text-align: right;">Page 190</p> <p>1 Sevier</p> <p>2 A. No.</p> <p>3 Q. Would Christine Ball know the</p> <p>4 answer to that question?</p> <p>5 A. She might. I don't know. You</p> <p>6 would have to ask her.</p> <p>7 Q. Who did Fabiani and Ragone report</p> <p>8 to?</p> <p>9 A. My memory is -- my understanding</p> <p>10 is that we paid their bills. But they were</p> <p>11 providing services to this entire team of</p> <p>12 us, the author, all of us at Dutton in terms</p> <p>13 of how to handle this media firestorm.</p> <p>14 Q. So were Fabiani and Ragone brought</p> <p>15 in in response to what you just described as</p> <p>16 a firestorm?</p> <p>17 A. Yes.</p> <p>18 Q. The firestorm that you are</p> <p>19 referring to is the issues that related to</p> <p>20 the publication, sorry. Strike that.</p> <p>21 The firestorm -- let me start</p> <p>22 again.</p> <p>23 The firestorm you are referring to</p> <p>24 relates to the government's reaction to the</p> <p>25 impending publication of No Easy Day, is</p>	<p style="text-align: right;">Page 192</p> <p>1 Sevier</p> <p>2 was outside of our areas of expertise as</p> <p>3 book publishers so we brought them on to</p> <p>4 help.</p> <p>5 Q. Who found Fabiani Lehane?</p> <p>6 A. They were referred by Elise</p> <p>7 Cheney.</p> <p>8 Q. What specifically, what</p> <p>9 services -- not the type of services, I</p> <p>10 asked you that. But what specifically did</p> <p>11 they do Fabiani and Mr. Ragone?</p> <p>12 A. They provided advice on how to</p> <p>13 deal with the media, respond to the media</p> <p>14 inquiries that were coming across our desks.</p> <p>15 Q. Through -- as you described</p> <p>16 through Elise Cheney or Mr. Ragone,</p> <p>17 Mr. Luskin appeared on the scene, correct?</p> <p>18 A. I am sorry.</p> <p>19 Q. It was either through Elise Cheney</p> <p>20 or Mr. Ragone that Mr. Luskin appeared on</p> <p>21 the scene?</p> <p>22 A. My understanding is one of these</p> <p>23 teams -- one of these people, somebody in</p> <p>24 the core team referred our author, Matt</p> <p>25 Bissonnette, to Mr. Luskin.</p>

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<p style="text-align: right;">Page 193</p> <p>1 Sevier</p> <p>2 Q. Did Dutton pay any of Mr. Luskin's</p> <p>3 legal fees at any point in time?</p> <p>4 A. Not to my knowledge.</p> <p>5 Q. Did anyone at Penguin or anyone</p> <p>6 affiliated with Dutton in any way pay</p> <p>7 Mr. Luskin's fees at any point in time?</p> <p>8 A. Not that I can remember, no.</p> <p>9 Q. To the best of your knowledge</p> <p>10 because I am asking you about something you</p> <p>11 may not know are you aware whether or not</p> <p>12 Elise Cheney paid for Mr. Luskin's legal</p> <p>13 fees at any point in time?</p> <p>14 A. I have no idea.</p> <p>15 Q. What did you understand Mr. Luskin</p> <p>16 to be doing when he was brought in to this</p> <p>17 situation?</p> <p>18 A. Advise Matt on how to deal with</p> <p>19 these questions about his actions since</p> <p>20 they -- the response conflicted with the</p> <p>21 legal advice he had gotten up to that point.</p> <p>22 Q. Mr. Luskin was brought in several</p> <p>23 days before the on sale/publication date,</p> <p>24 correct?</p> <p>25 A. Yes. That is my memory.</p>	<p style="text-align: right;">Page 195</p> <p>1 Sevier</p> <p>2 A. Not that I can remember.</p> <p>3 Q. Have you ever spoken to him</p> <p>4 individually?</p> <p>5 A. Not that I can remember.</p> <p>6 Q. Did Dutton retain any outside</p> <p>7 legal counsel after as you described the</p> <p>8 firestorm other than Fabiani and Ragone?</p> <p>9 MS. FOLEY: Objection. I am</p> <p>10 going to direct the witness not to</p> <p>11 answer unless you know from a source</p> <p>12 independent from conversations with</p> <p>13 counsel.</p> <p>14 MR. FURMAN: Let me add to -- I</p> <p>15 appreciate objections because I do</p> <p>16 them all the time but the retention of</p> <p>17 a lawyer is not privileged.</p> <p>18 MS. FOLEY: Right. The</p> <p>19 question -- right, you can ask him did</p> <p>20 he retain a lawyer for Dutton but --</p> <p>21 MR. FURMAN: I am.</p> <p>22 MS. FOLEY: I am asking him to</p> <p>23 exclude conversations he had with</p> <p>24 Dutton's attorney so if he himself</p> <p>25 retained an attorney he can tell you</p>
<p style="text-align: right;">Page 194</p> <p>1 Sevier</p> <p>2 Q. Did anyone at Dutton have separate</p> <p>3 conversations with Mr. Luskin to the best of</p> <p>4 your knowledge including you or anyone else</p> <p>5 that you worked with?</p> <p>6 A. I don't remember.</p> <p>7 Q. At any point in time have you had</p> <p>8 separate discussions with Mr. Luskin</p> <p>9 including today. At any point in time have</p> <p>10 you ever had a conversation with Mr. Luskin?</p> <p>11 A. When you say a "separate"</p> <p>12 conversation you mean me and Luskin and no</p> <p>13 one else on the telephone? What do you mean</p> <p>14 by "separate"?</p> <p>15 Q. What I mean by "separate" is</p> <p>16 separate from the team. In other words,</p> <p>17 separate from the team as you described it,</p> <p>18 Elise Cheney, Kevin Mauer, Kevin Podlaski,</p> <p>19 Matt Owen -- I am sorry, Matthew</p> <p>20 Bissonnette, other than that core of people,</p> <p>21 sometimes that would include I understand</p> <p>22 Ragone and Fabiani but aside from that core</p> <p>23 of people have you had discussions with</p> <p>24 Mr. Luskin that included only you and maybe</p> <p>25 some other people from Dutton?</p>	<p style="text-align: right;">Page 196</p> <p>1 Sevier</p> <p>2 he retained an attorney.</p> <p>3 If he only knows it because --</p> <p>4 if he only knows information yes or no</p> <p>5 because of conversations with an</p> <p>6 attorney --</p> <p>7 MR. FURMAN: That is not my</p> <p>8 question. My question is whether</p> <p>9 Dutton, not just, you know --</p> <p>10 MS. FOLEY: If you know from</p> <p>11 anyone besides talking to an attorney</p> <p>12 at Dutton, if you are able to answer</p> <p>13 the question of whether or not Dutton</p> <p>14 retained any outside counsel in</p> <p>15 relation to I guess the Jeh Johnson</p> <p>16 letter or the publication of No Easy</p> <p>17 Day you can answer.</p> <p>18 THE WITNESS: I am not going to</p> <p>19 answer then.</p> <p>20 MS. FOLEY: Okay.</p> <p>21 BY MR. FURMAN:</p> <p>22 Q. Did -- were you aware of any</p> <p>23 lawyers acting for Dutton at any point in</p> <p>24 time in relation to No Easy Day from</p> <p>25 August 30th up and through say November 30th</p>

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BISSONNETTE vs PODLASKI

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<p style="text-align: right;">Page 197</p> <p>1 Sevier</p> <p>2 of 2012?</p> <p>3 MS. FOLEY: Same direction.</p> <p>4 MR. FURMAN: The existence of a</p> <p>5 lawyer is not privileged. I don't</p> <p>6 want to fight you on it but, you know,</p> <p>7 we are -- you have to tell me how the</p> <p>8 existence of a lawyer is privileged.</p> <p>9 MS. FOLEY: If you are asking</p> <p>10 him to tell you information that he</p> <p>11 learned from counsel for Dutton you</p> <p>12 are asking him to talk about</p> <p>13 privileged conversations.</p> <p>14 MR. FURMAN: I am not asking</p> <p>15 that. I am asking what he knows. If</p> <p>16 you tell me that he doesn't know that</p> <p>17 lawyers were --</p> <p>18 MS. FOLEY: I am telling -- I am</p> <p>19 just directing him to answer the</p> <p>20 question if he can based on</p> <p>21 information he learned not from</p> <p>22 talking to a lawyer for Dutton.</p> <p>23 So the first question he said he</p> <p>24 can't answer.</p> <p>25 MR. FURMAN: But a lawyer for</p>	<p style="text-align: right;">Page 199</p> <p>1 Sevier</p> <p>2 with the firestorm as it were as you</p> <p>3 described it in connection with No Easy Day.</p> <p>4 I am not asking for communications. I don't</p> <p>5 want to know that.</p> <p>6 I just want to know other than</p> <p>7 Mr. Luskin if any other lawyers were</p> <p>8 involved.</p> <p>9 MS. FOLEY: I am going to object</p> <p>10 and instruct the witness not to answer</p> <p>11 if the only source of information he</p> <p>12 has is from conversations with</p> <p>13 counsel.</p> <p>14 THE WITNESS: Then I am not</p> <p>15 going to answer.</p> <p>16 BY MR. FURMAN:</p> <p>17 Q. Did you ever meet with any lawyers</p> <p>18 who were not employees of Dutton that</p> <p>19 related to No Easy Day?</p> <p>20 A. Can you repeat the question?</p> <p>21 MR. FURMAN: Would you mind?</p> <p>22 (Record read)</p> <p>23 MS. FOLEY: Did you ever meet</p> <p>24 with who were representing Dutton?</p> <p>25 MR. FURMAN: Yes.</p>
<p style="text-align: right;">Page 198</p> <p>1 Sevier</p> <p>2 Dutton includes a lawyer who is</p> <p>3 hired -- if Winston & Strawn is hired</p> <p>4 to deal with this, right, he is a</p> <p>5 lawyer for Dutton so your blanket</p> <p>6 objection and direction to the witness</p> <p>7 is palpably improper.</p> <p>8 If you are saying that this</p> <p>9 witness can only have learned that a</p> <p>10 lawyer was retained through -- an</p> <p>11 outside lawyer through a general</p> <p>12 counsel of some sort, in-house to</p> <p>13 Dutton, and then never had a separate</p> <p>14 conversation, never learned the</p> <p>15 identity of that person, that is</p> <p>16 ridiculous. It is an absurd</p> <p>17 objection.</p> <p>18 I am just asking for the</p> <p>19 existence of something. I don't know</p> <p>20 why I am fighting for this. You know,</p> <p>21 I am not talking about -- this is not</p> <p>22 difficult stuff.</p> <p>23 BY MR. FURMAN:</p> <p>24 Q. I am just asking whether you know</p> <p>25 if Dutton retained outside counsel to deal</p>	<p style="text-align: right;">Page 200</p> <p>1 Sevier</p> <p>2 MS. FOLEY: You can answer that</p> <p>3 question.</p> <p>4 THE WITNESS: I had a phone</p> <p>5 call.</p> <p>6 BY MR. FURMAN:</p> <p>7 Q. What law firm is that?</p> <p>8 A. I don't remember.</p> <p>9 Q. What is the name of that lawyer?</p> <p>10 A. My vague memory is that the first</p> <p>11 name -- there were two attorneys, and that</p> <p>12 their first names were Dean and Susan. I</p> <p>13 couldn't swear to that.</p> <p>14 Q. Let's use Dean and Susan for now.</p> <p>15 We can always fill in the blanks later.</p> <p>16 Is there a way that you could</p> <p>17 search your files and get the real name of</p> <p>18 Dean and Susan?</p> <p>19 A. I can certainly search the file.</p> <p>20 I don't know if it would be in my files.</p> <p>21 Q. Were Dean and Susan involved in</p> <p>22 any conference calls with people other than</p> <p>23 Dutton employees to the best of your</p> <p>24 knowledge? Were you involved in any</p> <p>25 meetings or telephone conferences with Dean</p>

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BISSONNETTE vs PODLASKI

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<p>1 Sevier</p> <p>2 and Susan that involved people outside of</p> <p>3 Dutton?</p> <p>4 A. I have no idea. I don't know.</p> <p>5 Q. Do you know whether or not Dean</p> <p>6 and Susan and their law firm communicated in</p> <p>7 any way with Mr. Luskin?</p> <p>8 A. I don't know.</p> <p>9 Q. Were Dean and Susan part of</p> <p>10 Mr. Luskin's firm, do you know?</p> <p>11 A. I don't think they were.</p> <p>12 Q. Going back to Exhibit 108.</p> <p>13 A. Can we take a two-minute comfort</p> <p>14 break?</p> <p>15 MR. FURMAN: Sure.</p> <p>16 (Recess)</p> <p>17 BY MR. FURMAN:</p> <p>18 Q. So in 108, if you can take a look</p> <p>19 at page 60.</p> <p>20 A. Okay.</p> <p>21 Q. This is after the Jeh Johnson</p> <p>22 letter, Matt Bissonnette wrote to you,</p> <p>23 copied several others and he was saying he</p> <p>24 was in for a meeting and then he referring</p> <p>25 to Kevin Podlaski said, "From the looks of</p>	<p>1 Sevier</p> <p>2 possibly be true because it was in direct</p> <p>3 opposition to what we had believed and</p> <p>4 what -- the legal advice that Matt got that</p> <p>5 led us to so we were trying to figure out if</p> <p>6 it was right.</p> <p>7 Q. Based on the e-mail that I</p> <p>8 referred you to is it fair to say that</p> <p>9 Mr. Bissonnette is telling Kevin Podlaski</p> <p>10 for the first time that he signed some</p> <p>11 documents? This is from the first.</p> <p>12 MS. FOLEY: Object to the form</p> <p>13 of the question.</p> <p>14 BY MR. FURMAN:</p> <p>15 Q. From the first sentence.</p> <p>16 MR. JOHNSTON: Objection.</p> <p>17 Foundation.</p> <p>18 MS. FOLEY: Objection.</p> <p>19 BY MR. FURMAN:</p> <p>20 Q. I will establish a foundation.</p> <p>21 Do you know whether or not</p> <p>22 Mr. Bissonnette signed any nondisclosure</p> <p>23 agreements with the government?</p> <p>24 MS. FOLEY: Object to the form</p> <p>25 of the question. Lack of foundation.</p>
Page 202	Page 204
<p>1 Sevier</p> <p>2 the documents apparently I did sign some</p> <p>3 sort of SAP program documents."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Did you know what he was referring</p> <p>7 to?</p> <p>8 A. He is referring to the documents</p> <p>9 that are -- were attached to Jeh Johnson's</p> <p>10 letter.</p> <p>11 Q. Once you learned that there were</p> <p>12 some agreements that were signed by</p> <p>13 Mr. Bissonnette that related to his</p> <p>14 obligations to the government did you have a</p> <p>15 discussion about what to do next with</p> <p>16 anyone?</p> <p>17 A. Yes. We had many discussions.</p> <p>18 Q. Who did you speak with?</p> <p>19 A. I spoke with Brian Tart, my</p> <p>20 publisher, with Christine Ball, with the</p> <p>21 whole team. We all talked about it.</p> <p>22 Q. The question was whether -- what</p> <p>23 was the question? What was the decision</p> <p>24 tree at that point?</p> <p>25 A. The first question was could this</p>	<p>1 Sevier</p> <p>2 MR. JOHNSTON: Object. Lack of</p> <p>3 foundation.</p> <p>4 THE WITNESS: Do I know that</p> <p>5 today? Yes.</p> <p>6 BY MR. FURMAN:</p> <p>7 Q. Because you got the Jeh Johnson</p> <p>8 letter, right?</p> <p>9 A. For various reasons I know that</p> <p>10 now.</p> <p>11 Q. Okay. But the Jeh Johnson is one</p> <p>12 sure fire way you would know it, right?</p> <p>13 A. Well, no, I don't know what these</p> <p>14 documents mean. Some of them were actually</p> <p>15 written as I recall with classified symbols</p> <p>16 of things that aren't even in the English</p> <p>17 language so.</p> <p>18 No. This means nothing to me but</p> <p>19 I have come to learn in the month and year</p> <p>20 since this all happened that apparently Matt</p> <p>21 did sign agreements since they took all of</p> <p>22 his money away.</p> <p>23 Q. I will use the term agreements,</p> <p>24 not disclosure agreements just so that I can</p> <p>25 ask you questions. I appreciate that you</p>

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Page 205	Page 207
<p>1 Sevier</p> <p>2 know fine points of what that means.</p> <p>3 A. Right.</p> <p>4 Q. But were you aware before</p> <p>5 August 30th of 2012 that Matt Bissonnette</p> <p>6 had signed any nondisclosure agreements with</p> <p>7 the government?</p> <p>8 A. I knew only what Matt told me</p> <p>9 which as I recall was, I am not sure what I</p> <p>10 signed, I signed documents when I joined the</p> <p>11 military, he made statements of that nature</p> <p>12 to me and not being an expert on what one</p> <p>13 signs joining the military or any other</p> <p>14 point I didn't know nor did I have any</p> <p>15 reason to know what those agreements would</p> <p>16 have been.</p> <p>17 Q. All right.</p> <p>18 Now, I asked you about a decision</p> <p>19 tree. What decisions, if any, did Dutton</p> <p>20 have to make at that point in time on</p> <p>21 receipt of the August 30th letter?</p> <p>22 A. We had to decide whether to</p> <p>23 proceed with our meticulously planned and</p> <p>24 very robust media schedule for the book's</p> <p>25 publication and if we were going to alter it</p>	<p>1 Sevier</p> <p>2 paragraph.</p> <p>3 It states, "Further public</p> <p>4 dissemination of your book will aggravate</p> <p>5 your breach in violation of your</p> <p>6 agreements."</p> <p>7 Do you see that?</p> <p>8 A. Yes, I do.</p> <p>9 Q. Now was part of the decision for</p> <p>10 Dutton whether or not on August 30th to</p> <p>11 change the on sale and publication date</p> <p>12 based on this letter?</p> <p>13 A. No. That decision had been made</p> <p>14 before we got this letter.</p> <p>15 Q. Now you -- previously Dutton had</p> <p>16 made the decision to change the on sale and</p> <p>17 publication date from September 11th to</p> <p>18 September 4th, correct?</p> <p>19 A. That's right.</p> <p>20 Q. Upon receipt of this August 30th,</p> <p>21 2012 letter did Dutton consider changing the</p> <p>22 on sale and publication date to a point in</p> <p>23 time after September 4th of 2012 given this</p> <p>24 letter from Jeh Johnson?</p> <p>25 A. I don't remember that being a</p>
Page 206	Page 208
<p>1 Sevier</p> <p>2 in what way we were going to alter it to</p> <p>3 protect our author.</p> <p>4 We were very concerned at that</p> <p>5 time about Matt's security, so we were</p> <p>6 making decisions about paying for personal</p> <p>7 security for him and I think if I remember</p> <p>8 right for his family.</p> <p>9 There were lots of decisions being</p> <p>10 made.</p> <p>11 Q. In the letter, Exhibit 1, if you</p> <p>12 could turn to it, I want to focus your</p> <p>13 attention, it is right in front of you, to</p> <p>14 the second full paragraph and --</p> <p>15 MR. JOHNSTON: I apologize. I</p> <p>16 missed the reference. Where are we?</p> <p>17 MR. FURMAN: We are on Exhibit</p> <p>18 Number 1, Jeh Johnson's letter.</p> <p>19 MR. JOHNSTON: Sorry.</p> <p>20 MR. FURMAN: It is okay. I am</p> <p>21 trying to deceive you like</p> <p>22 intentionally.</p> <p>23 BY MR. FURMAN:</p> <p>24 Q. We are in the second paragraph and</p> <p>25 we are at the last sentence of the second</p>	<p>1 Sevier</p> <p>2 conversation at all because it was</p> <p>3 impossible at that point to make such a</p> <p>4 decision as far as we were concerned.</p> <p>5 Q. I want to talk about impossibility</p> <p>6 because you said as far as Dutton was</p> <p>7 concerned it was impossible, is that --</p> <p>8 A. Yes. The books were out,</p> <p>9 reporters had legally or against our embargo</p> <p>10 obtained copies in bookstores I believe at</p> <p>11 this point. The book was published. I</p> <p>12 mean, yes, it had not adhered to our</p> <p>13 publication date and our on sale date, even</p> <p>14 the revised 9/4, but, as I said before, a</p> <p>15 half million copies what ultimately became,</p> <p>16 you know, the biggest book of the moment</p> <p>17 were already out there in the world. People</p> <p>18 had their hands on them.</p> <p>19 The government appears by this</p> <p>20 letter to have bought a copy of his book or</p> <p>21 otherwise found a copy of the actual book so</p> <p>22 the book was published, it was out.</p> <p>23 Q. Mr. Johnson's letter says in</p> <p>24 fairly plain language in that sentence I</p> <p>25 referred you to, he used the term "further</p>

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209-212

<p style="text-align: right;">Page 209</p> <p>1 Sevier</p> <p>2 public dissemination."</p> <p>3 Do you see that?</p> <p>4 A. Yes, I do.</p> <p>5 Q. Could Dutton at that point in time</p> <p>6 changed its instruction to the various</p> <p>7 retailers through its sales rep, through</p> <p>8 Mr. Heffernan to change the publication and</p> <p>9 on sale date to a future date at that point</p> <p>10 in time, yes or no?</p> <p>11 A. Practically speaking?</p> <p>12 Q. I am not asking you practically.</p> <p>13 Whether they could do it, yes or no?</p> <p>14 A. Whether they could have asked --</p> <p>15 they could have said, sorry, it is not on</p> <p>16 sale 9/4. Instead the publication date is</p> <p>17 some other date.</p> <p>18 I suppose hypothetically I don't</p> <p>19 see why they couldn't make that request.</p> <p>20 Q. The way that Dutton executes its</p> <p>21 on sale date and publication date is by</p> <p>22 communicating to its retailers the date that</p> <p>23 it wishes to do it and in your terms it was</p> <p>24 a strict date. Correct?</p> <p>25 A. That's right.</p>	<p style="text-align: right;">Page 211</p> <p>1 Sevier</p> <p>2 thousands of retailers across the</p> <p>3 country who would then have to ingest</p> <p>4 that information, discuss it with the</p> <p>5 many probably tens of thousands of</p> <p>6 book sellers who would have been in</p> <p>7 charge of putting the books out over</p> <p>8 the weekend so they were there for</p> <p>9 that sale date on Tuesday morning when</p> <p>10 they opened.</p> <p>11 That is what I mean when I say I</p> <p>12 don't think practically we could have</p> <p>13 so I don't recall after this letter</p> <p>14 came that we had any discussions about</p> <p>15 it.</p> <p>16 BY MR. FURMAN:</p> <p>17 Q. I appreciate that you are</p> <p>18 providing me with the -- some practical</p> <p>19 considerations that you believe would have</p> <p>20 happened and I am not asking you about that</p> <p>21 so I am going to move to strike your answer</p> <p>22 as not responsive to my question.</p> <p>23 My question to you is upon receipt</p> <p>24 of this letter and you can answer this</p> <p>25 simply just yes or no whether or not Dutton</p>
<p style="text-align: right;">Page 210</p> <p>1 Sevier</p> <p>2 Q. And there was nothing preventing</p> <p>3 other than commercial aspects which we will</p> <p>4 get into but there was nothing preventing</p> <p>5 Dutton from making a decision to change the</p> <p>6 date from September 4th of 2012 to change</p> <p>7 the communication at least to the retailers</p> <p>8 to a later date for its publication and on</p> <p>9 sale date given Mr. Johnson's letter,</p> <p>10 correct?</p> <p>11 MS. FOLEY: Object to the form</p> <p>12 of the question. Asked and answered.</p> <p>13 THE WITNESS: The horse had left</p> <p>14 the barn is the only way I can put</p> <p>15 it.</p> <p>16 By Friday morning which is one</p> <p>17 half business day before the book's on</p> <p>18 sale date on Tuesday, the 4th, which</p> <p>19 the day after the holiday weekend and</p> <p>20 the early close by Penguin on Friday,</p> <p>21 the 31st, a decision like that would</p> <p>22 have had to have been made in the</p> <p>23 three, three-and-a-half hours we were</p> <p>24 open for business on Friday and then</p> <p>25 communicated in some way to many</p>	<p style="text-align: right;">Page 212</p> <p>1 Sevier</p> <p>2 could have changed the on sale and</p> <p>3 publication date?</p> <p>4 MS. FOLEY: Object to the</p> <p>5 question. Asked and answered.</p> <p>6 THE WITNESS: No is my answer.</p> <p>7 BY MR. FURMAN:</p> <p>8 Q. Your answer is that it would have</p> <p>9 been impossible for Mr. Heffernan to</p> <p>10 communicate -- let me backtrack and let me</p> <p>11 just ask a different question.</p> <p>12 The communications by 50 sales</p> <p>13 reps, they would either take place either by</p> <p>14 phone call or e-mail to the best of your</p> <p>15 knowledge?</p> <p>16 A. Most likely that is right, yes.</p> <p>17 Q. Are you saying that that</p> <p>18 communication couldn't happen in one single</p> <p>19 day?</p> <p>20 MS. FOLEY: Objection to the</p> <p>21 form of the question.</p> <p>22 BY MR. FURMAN:</p> <p>23 Q. I am talking about the</p> <p>24 communication. I am not talking about the</p> <p>25 practical aspects of it. That's -- you don't</p>

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Page 213

1 Sevier
2 know, you are not a retailer, right?
3 A. No, I am not although I have
4 worked in bookstores.
5 Q. So if you are -- you have no
6 knowledge of what Barnes & Noble in Union
7 Square would have done on September 4th at
8 4:59 p.m. if they got the communication from
9 Dutton stop the presses, don't release the
10 book. You don't know what they would have
11 done, right?
12 A. No. I have two decades of
13 experience in thinking about issues and how
14 these things work but, no, I don't know how
15 they would have done it or what they would
16 have done or what they are capable of.
17 Q. When I take that one bookstore,
18 which is the one I know, and I then apply
19 that same question to every bookstore that
20 would have been receiving copies of this
21 book, you don't know one way or another, do
22 you, whether they could have followed,
23 adhered to a directive from Dutton, correct?
24 You are speculating but you don't know?
25 MS. FOLEY: Object to the form

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1 Sevier
2 of the question.
3 THE WITNESS: In my opinion
4 based on my experience --
5 BY MR. FURMAN:
6 Q. I am not asking your opinion
7 because you have to answer my questions.
8 A. Can you repeat the question?
9 Q. I am asking whether you know.
10 A. Can you repeat the question
11 please?
12 Q. Sure.
13 Take what I just asked you about
14 Union Square at 3:59 p.m. on August 30th,
15 2012 whether every single bookstore
16 throughout the country and throughout the
17 world received the same directive from
18 Penguin/Dutton, stop, don't sell the book,
19 you don't know whether or not they could
20 have followed through on that directive, yes
21 or no?
22 A. No.
23 Q. If at -- I keep changing the time
24 but I am just trying to make a point here.
25 At 2:59 p.m. on August 30th of

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1 Sevier
2 2012 --
3 A. Can I just point out that you are
4 talking about a time before we received the
5 Jeh Johnson letter so do you actually mean
6 August 31st or do you mean August 30th
7 before we received this letter?
8 Q. Yes. That is a fair point, Mr.
9 Sevier.
10 So maybe I should ask you this.
11 Do you know when this fax, if it was
12 received by fax, was received by Mr. Gigante
13 at Penguin?
14 A. I know exactly when the first
15 Penguin employee received this fax because
16 it was me.
17 Q. When was that?
18 A. It was the evening after hours on
19 August 30th sometime after 8:00 p.m. after
20 we read it in the media and saw that it was
21 addressed to our author, in care of Alex
22 Gigante. I took a cab back to the office
23 and found the fax.
24 Q. So you got to the office pretty
25 late on August 30th and saw the fax sitting

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1 Sevier
2 there on the fax machine?
3 A. That's right.
4 Q. 10:00 at night that evening.
5 I appreciate that Dutton can't
6 tell Barnes & Noble on Union Square what to
7 do, a sales clerk can do whatever they like.
8 But as far as Dutton's ability to control
9 its own destiny, at that moment when you
10 received that fax as the editor in chief of
11 Dutton could you have then effectuated a --
12 an order that would have directed the
13 stopping and altering of the September 4th,
14 2012 on sale publication date?
15 A. No. I did not have that power.
16 Q. Who had that power?
17 A. My feeling is that the only person
18 who would have been empowered to make a
19 decision like that would have been our CEO,
20 David Shanks.
21 Q. Were you able to communicate with
22 Mr. Shanks?
23 Can you spell that?
24 A. S-H-A-N-K-S.
25 Q. I am assuming you didn't

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BISSONNETTE vs PODLASKI

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<p style="text-align: right;">Page 217</p> <p>1 Sevier</p> <p>2 communicate with Mr. Shanks that evening,</p> <p>3 did you?</p> <p>4 A. I don't remember speaking with</p> <p>5 David that evening, no.</p> <p>6 Q. Did you speak to David at any</p> <p>7 point in time before September 4th, 2012?</p> <p>8 A. I don't have any recollection of a</p> <p>9 conversation with him.</p> <p>10 Q. Could you have reached out to</p> <p>11 Mr. Shanks at any point in time from</p> <p>12 September 30th that evening up until</p> <p>13 September 4th, 2012 if you wanted to?</p> <p>14 A. August 30th.</p> <p>15 Q. August 30th of 2012 to</p> <p>16 September 4th, 2012?</p> <p>17 A. I would have been going outside</p> <p>18 the chain of command. He was three -- at</p> <p>19 least three levels above me. It would have</p> <p>20 been highly unusual.</p> <p>21 Am I capable of making a phone</p> <p>22 call, yes.</p> <p>23 Q. Let's take the chain of command.</p> <p>24 You said you are incapable of</p> <p>25 making that decision.</p>	<p style="text-align: right;">Page 219</p> <p>1 Sevier</p> <p>2 of that.</p> <p>3 If it were to come up in that</p> <p>4 circumstance I am telling you practically</p> <p>5 speaking it would have been dismissed</p> <p>6 immediately as impossible.</p> <p>7 Q. Now what if Mark Owen -- Matthew</p> <p>8 Bissonnette, on August 30th that evening,</p> <p>9 said to you "Hey, Ben, stop publication of</p> <p>10 the book," what would have happened?</p> <p>11 MS. FOLEY: Objection. Calls</p> <p>12 for speculation.</p> <p>13 MR. FURMAN: Obviously.</p> <p>14 THE WITNESS: I suppose I would</p> <p>15 have relayed that communication to the</p> <p>16 chain of command I referred to</p> <p>17 earlier.</p> <p>18 BY MR. FURMAN:</p> <p>19 Q. And what if at any point in time</p> <p>20 before September 4th of 2012 Mr. Luskin had</p> <p>21 advised Mr. Owen/Mr. Bissonnette that the</p> <p>22 book should not be published what you would</p> <p>23 have been able to do?</p> <p>24 MS. FOLEY: Objection. Calls</p> <p>25 for speculation.</p>
<p style="text-align: right;">Page 218</p> <p>1 Sevier</p> <p>2 Who in the chain of command at</p> <p>3 Dutton would you have spoken to? Who would</p> <p>4 you have spoken to to comply with</p> <p>5 Mr. Johnson's letter of August 30, 2012?</p> <p>6 A. Well, my boss, the publisher,</p> <p>7 Brian Tart would have been my first phone</p> <p>8 call.</p> <p>9 Q. Did you speak with Mr. Tart about</p> <p>10 complying with the August 30th, 2012 letter</p> <p>11 from Jeh Johnson?</p> <p>12 A. I am not sure what you mean by</p> <p>13 "comply."</p> <p>14 Q. I am talking about the language</p> <p>15 that says, "Further dissemination of the</p> <p>16 book will aggravate your breach in violation</p> <p>17 of your agreements."</p> <p>18 A. The letter is addressed to Mark</p> <p>19 Owen, not to Penguin, first of all, but</p> <p>20 setting that aside did I have a conversation</p> <p>21 with Brian about finding some way to get</p> <p>22 around as I have said the impossible,</p> <p>23 practical considerations to somehow stop</p> <p>24 publication of book that was essentially</p> <p>25 already published, I have no specific memory</p>	<p style="text-align: right;">Page 220</p> <p>1 Sevier</p> <p>2 THE WITNESS: I feel I have</p> <p>3 answered that question already. It</p> <p>4 wouldn't have been any different from</p> <p>5 what I said previously.</p> <p>6 BY MR. FURMAN:</p> <p>7 Q. Did anyone tell you not to publish</p> <p>8 the book?</p> <p>9 A. Not that I recall.</p> <p>10 Q. Did Mr. Bissonnette say stop</p> <p>11 publication of the book?</p> <p>12 A. Not that I recall.</p> <p>13 Q. Did Mr. Podlaski say don't publish</p> <p>14 the book?</p> <p>15 A. No, he did not.</p> <p>16 Q. Did Mr. Luskin say don't publish</p> <p>17 the book?</p> <p>18 A. Not that I recall.</p> <p>19 Q. Did either Mr. Fabiani or</p> <p>20 Mr. Ragone say don't publish this book?</p> <p>21 A. Not that I recall.</p> <p>22 Q. So the book was published on</p> <p>23 September 4th of 2012 pursuant to the on</p> <p>24 sale and publication date, correct?</p> <p>25 MS. FOLEY: Object to the form</p>

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BISSONNETTE vs PODLASKI

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<p style="text-align: right;">Page 221</p> <p>1 Sevier</p> <p>2 of the question. Mischaracterizes the</p> <p>3 testimony.</p> <p>4 MR. JOHNSTON: Or alternative</p> <p>5 objection, asked and answered.</p> <p>6 THE WITNESS: The book was on</p> <p>7 sale on September 4th, 2012.</p> <p>8 BY MR. FURMAN:</p> <p>9 Q. Whose decision was it to proceed</p> <p>10 with the publication and on sale date of</p> <p>11 September 4th after the September 30th, 2012</p> <p>12 letter?</p> <p>13 A. The August 30th, 2012 letter as I</p> <p>14 have said, we didn't make that decision.</p> <p>15 The book was essentially already published</p> <p>16 before we received this letter.</p> <p>17 Q. If -- in Exhibit 108 turn to page</p> <p>18 87. I am referring to an August 31st e-mail</p> <p>19 at 12:00 p.m. That is the Friday.</p> <p>20 You were working on that day,</p> <p>21 correct?</p> <p>22 A. Yes, I was.</p> <p>23 Q. I take it to the best of your</p> <p>24 knowledge Mr. Heffernan was working on that</p> <p>25 day?</p>	<p style="text-align: right;">Page 223</p> <p>1 Sevier</p> <p>2 I don't have a specific memory of it right</p> <p>3 now.</p> <p>4 Q. Since the letter as you described</p> <p>5 it, the August 30th letter by Mr. Johnson</p> <p>6 was directed to the author and not to Dutton</p> <p>7 why were you included in the response in the</p> <p>8 formulation of the responsive letter?</p> <p>9 A. I guess it would have been at the</p> <p>10 author's request as we looked at a previous</p> <p>11 e-mail that I was gathering this team</p> <p>12 including the lawyers for a call at 10:00</p> <p>13 a.m. this morning where I believe we</p> <p>14 discussed this letter at Matt's request.</p> <p>15 Q. In your e-mail referring to the</p> <p>16 letter you wrote that it was the publisher's</p> <p>17 priority to get that letter out. Why was it</p> <p>18 a priority of Dutton?</p> <p>19 A. Because we were very concerned for</p> <p>20 our author. And we wanted -- we still</p> <p>21 believed at this point that we were in the</p> <p>22 right and that Matt had done nothing wrong</p> <p>23 per Podlaski's advice and his continuing</p> <p>24 advice and we thought we were correcting the</p> <p>25 record by getting a letter like this out</p>
<p style="text-align: right;">Page 222</p> <p>1 Sevier</p> <p>2 A. I actually have no idea. It would</p> <p>3 be fairly typical of Dick to have taken that</p> <p>4 day off for the holiday.</p> <p>5 Q. The sales force people were there?</p> <p>6 A. Some, others would have been away</p> <p>7 for the holiday weekend.</p> <p>8 Q. Your e-mail of that day at 12:00</p> <p>9 p.m. says "The publisher's priority is to</p> <p>10 get that strong letter out as soon as</p> <p>11 possible."</p> <p>12 Do you see that?</p> <p>13 A. I do.</p> <p>14 Q. And the "strong letter" I am just</p> <p>15 going to refer you to page 89 of Exhibit</p> <p>16 108.</p> <p>17 A. Okay.</p> <p>18 Q. Is that the strong letter you are</p> <p>19 referring to in your e-mail?</p> <p>20 A. I believe it is.</p> <p>21 Q. Exhibit -- page 89 of Exhibit 108,</p> <p>22 the letter written by Mr. Luskin, did you</p> <p>23 review it before it was sent out to</p> <p>24 Mr. Johnson?</p> <p>25 A. I think we did. I think I did but</p>	<p style="text-align: right;">Page 224</p> <p>1 Sevier</p> <p>2 that said, sorry, Mr. Johnson, you have your</p> <p>3 facts wrong.</p> <p>4 Q. I understand that you mentioned</p> <p>5 that you were concerned for the author but</p> <p>6 your relationship with the author was based</p> <p>7 on a contract, correct?</p> <p>8 A. That was one of the aspects of our</p> <p>9 relationship.</p> <p>10 Q. As it relates to the book other</p> <p>11 than your personal relationship with</p> <p>12 Mr. Bissonnette, putting that aside, I am</p> <p>13 talking about your -- Dutton's commercial</p> <p>14 relationship with Mr. Bissonnette was via a</p> <p>15 contract, right?</p> <p>16 A. Yes, but the contract in the</p> <p>17 publishing business does not always control</p> <p>18 our actions. It is a business full of human</p> <p>19 beings. I mean we cared a lot about our</p> <p>20 author.</p> <p>21 Q. So is it fair to say that at least</p> <p>22 from a commercial perspective that the</p> <p>23 publisher has an interest in the book being</p> <p>24 published, right? You wanted to make money?</p> <p>25 A. That is fair.</p>

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BISSONNETTE vs PODLASKI

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<p>1 Sevier</p> <p>2 Q. Okay. And so when you talk about</p> <p>3 the priority is it only because of your</p> <p>4 concern for Mr. Bissonnette's well being or</p> <p>5 is it also because of the publisher's</p> <p>6 priority as it relates to its commercial</p> <p>7 success?</p> <p>8 MS. FOLEY: Asked and answered.</p> <p>9 BY MR. FURMAN:</p> <p>10 Q. I didn't ask him that.</p> <p>11 You can answer it. Mr. Sevier,</p> <p>12 you can answer it.</p> <p>13 A. I am fairly sure I already</p> <p>14 answered that question.</p> <p>15 Q. Like having a battle over nothing.</p> <p>16 You can answer the question.</p> <p>17 MS. FOLEY: You can answer the</p> <p>18 question.</p> <p>19 THE WITNESS: Can you repeat the</p> <p>20 question then, I have forgotten it.</p> <p>21 (Record read)</p> <p>22 THE WITNESS: This letter as far</p> <p>23 as I can tell is in response to a</p> <p>24 letter from Jeh Johnson, the U.S.</p> <p>25 Government to Mark Owen about his</p>	<p>1 Sevier</p> <p>2 out.</p> <p>3 Q. What is the strategy behind</p> <p>4 getting the letter out. What is the purpose</p> <p>5 of it?</p> <p>6 A. To correct the misinformation that</p> <p>7 we felt and were being told by Kevin</p> <p>8 Podlaski was out there in the media reports</p> <p>9 and in Jeh Johnson's letter.</p> <p>10 Q. Mr. Luskin wrote that letter,</p> <p>11 correct, the responsive letter which you are</p> <p>12 referring to as on page 89 and 90?</p> <p>13 A. His name is at the bottom of it.</p> <p>14 Q. To the best of your knowledge</p> <p>15 Mr. Luskin was representing Matt</p> <p>16 Bissonnette, correct?</p> <p>17 A. Absolutely.</p> <p>18 Q. To the extent that you know it</p> <p>19 understood Mr. Luskin had full access to his</p> <p>20 client, right?</p> <p>21 A. Yes.</p> <p>22 Q. So the information and the</p> <p>23 response to Mr. Johnson's letter of</p> <p>24 August 31st of 2012, this is Mr. Luskin's</p> <p>25 work isn't it, fair to say?</p>
Page 226	Page 228
<p>1 Sevier</p> <p>2 personal legal liability.</p> <p>3 Nobody at this point had</p> <p>4 addressed Penguin officially in any</p> <p>5 way.</p> <p>6 We had no communication from the</p> <p>7 government asking us to take any</p> <p>8 action and so I say -- in the e-mail</p> <p>9 where I say the priority is to get</p> <p>10 that letter out is about our</p> <p>11 relationship with Matt and wanting him</p> <p>12 to be protected by his high power</p> <p>13 attorney who has come on board hours</p> <p>14 earlier.</p> <p>15 BY MR. FURMAN:</p> <p>16 Q. In that e-mail of August 30, 31st</p> <p>17 at 12:00 p.m. you wrote that we have --</p> <p>18 A. Which e-mail?</p> <p>19 Q. Of course. Page 87.</p> <p>20 A. Okay.</p> <p>21 Q. You write, "We have no further</p> <p>22 updates except to execute the strategy we</p> <p>23 agreed on this morning."</p> <p>24 What strategy are you discussing?</p> <p>25 A. I think it was getting the letter</p>	<p>1 Sevier</p> <p>2 MR. JOHNSTON: Object to lack of</p> <p>3 foundation.</p> <p>4 THE WITNESS: I don't know who</p> <p>5 he might have had help him draft it</p> <p>6 but it is on his letterhead and it has</p> <p>7 his name at the bottom of it.</p> <p>8 BY MR. FURMAN:</p> <p>9 Q. If you could turn to page 66 of</p> <p>10 the document 108.</p> <p>11 There is an e-mail dated</p> <p>12 September 7th of 2012 at 10:49 p.m. and it</p> <p>13 is from -- 10:49 a.m., excuse me. It is</p> <p>14 from Mr. Luskin and addressed to several</p> <p>15 people including you.</p> <p>16 And it states, "Agreed with</p> <p>17 Kevin"-- "Agree with Kevin the ball is very</p> <p>18 conspicuously in DOD's court in their</p> <p>19 silence in response to our invitation for</p> <p>20 evidence that Mark signed an SCI</p> <p>21 applicable," it is misspelled but he meant</p> <p>22 to say "applicable to Neptune is truly</p> <p>23 deafening. I think we are just fine with</p> <p>24 the status quo. If this is the best they</p> <p>25 can come up with and they are circulating it</p>

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BISSONNETTE vs PODLASKI

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<p style="text-align: right;">Page 229</p> <p>1 Sevier</p> <p>2 publicly rather than as a response to us</p> <p>3 directly we are doing just fine."</p> <p>4 Do you see that?</p> <p>5 A. Yes, I do.</p> <p>6 Q. Is this advice that Mr. Luskin is</p> <p>7 giving you?</p> <p>8 A. I would have to read the chain of</p> <p>9 e-mail in the context around it so to really</p> <p>10 answer that question.</p> <p>11 Q. Feel free to do that.</p> <p>12 A. Okay. This looks like a piece of</p> <p>13 advice to the whole team working on Matt's</p> <p>14 behalf.</p> <p>15 Q. The reason I am asking that</p> <p>16 question is because the e-mail that precedes</p> <p>17 it on page 66 at 10:41 a.m. is from you and</p> <p>18 you correct an e-mail address so that</p> <p>19 Mr. Luskin is involved and that is why I am</p> <p>20 asking you since you -- you were the only</p> <p>21 person that -- of the group who wanted</p> <p>22 Mr. Luskin's involvement apparently I want</p> <p>23 to know why that is.</p> <p>24 MR. JOHNSTON: Object to the</p> <p>25 form of the question.</p>	<p style="text-align: right;">Page 231</p> <p>1 Sevier</p> <p>2 something there. I really did.</p> <p>3 BY MR. FURMAN:</p> <p>4 Q. Was there -- Mr. Sevier, was there</p> <p>5 anything in the contract that governed your</p> <p>6 relationship between Dutton and the author</p> <p>7 that would have prevented you from changing</p> <p>8 the publication date from September 4th of</p> <p>9 2012 to a later date in view of the</p> <p>10 August 30th, 2012 letter?</p> <p>11 A. Nothing comes to mind. I would</p> <p>12 have to read the whole contract to answer</p> <p>13 that definitively.</p> <p>14 Sometimes authors have approval</p> <p>15 over a publication date. I don't know if</p> <p>16 that is true in this case. So in that case</p> <p>17 we would have had to consult with the author</p> <p>18 and get his okay. Other than that, I can't</p> <p>19 think of a contractual reason that we would</p> <p>20 not have been able to make a decision on</p> <p>21 that.</p> <p>22 Q. Are you aware whether or not a</p> <p>23 clause was proposed in the contract, not</p> <p>24 accepted but proposed, that would have</p> <p>25 protected the author if the publisher chose</p>
<p style="text-align: right;">Page 230</p> <p>1 Sevier</p> <p>2 THE WITNESS: I disagree with</p> <p>3 that contention completely.</p> <p>4 BY MR. FURMAN:</p> <p>5 Q. Okay. So explain to me. Maybe I</p> <p>6 am misinterpreting.</p> <p>7 A. The way I see it I think he had</p> <p>8 misspelled Mr. Luskin's name in a previous</p> <p>9 e-mail and so I was -- I noticed that. As</p> <p>10 an editor I look for things like</p> <p>11 misspellings and so I corrected it because</p> <p>12 he had intended Luskin to be on it.</p> <p>13 Q. Why? So is that the reason why</p> <p>14 because of a misspelling?</p> <p>15 A. As far as I know. I can't see the</p> <p>16 misspelling now but that happens frequently</p> <p>17 in group e-mail chains and that is typically</p> <p>18 what I do.</p> <p>19 Q. That is a good spot because I</p> <p>20 think you are right, there is a missing G.</p> <p>21 A. There you go.</p> <p>22 Q. I can't believe it.</p> <p>23 MR. JOHNSTON: I am going to</p> <p>24 miss my flight over that.</p> <p>25 MR. FURMAN: I thought I had</p>	<p style="text-align: right;">Page 232</p> <p>1 Sevier</p> <p>2 to submit the book for a prepublication</p> <p>3 review?</p> <p>4 A. I am sorry. Can you repeat the</p> <p>5 question?</p> <p>6 Q. Sure.</p> <p>7 Are you aware of whether or not</p> <p>8 there was a proposal that emanated through</p> <p>9 Mr. Podlaski through the contract that would</p> <p>10 have protected the author if the publisher</p> <p>11 had chosen to submit the book for a</p> <p>12 prepublication review?</p> <p>13 A. I have no memory of that.</p> <p>14 Q. If I told you that that was</p> <p>15 proposed would that -- is it that one way or</p> <p>16 another would that surprise you?</p> <p>17 A. It wouldn't be particularly</p> <p>18 surprising, no.</p> <p>19 Q. Do you have any recollection of</p> <p>20 rejecting that proposal?</p> <p>21 A. I don't.</p> <p>22 Q. I am going ask you some questions,</p> <p>23 you may not have the answer to them but I</p> <p>24 would like to know if you don't have the</p> <p>25 answer and for the purposes of saving some</p>

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<p style="text-align: right;">Page 233</p> <p>1 Sevier</p> <p>2 time let me know the best source for finding</p> <p>3 this information.</p> <p>4 Are sales of No Easy Day</p> <p>5 continuing as of today?</p> <p>6 A. Yes.</p> <p>7 Q. How is that being tracked so I</p> <p>8 know the source of finding that information.</p> <p>9 Is that through Elise Cheney so if a sale</p> <p>10 took place over the Christmas holiday Elise</p> <p>11 Cheney would know that information?</p> <p>12 A. Well, Elise Cheney's royalty</p> <p>13 statements would be behind real time sales</p> <p>14 by as much as six months depending on where</p> <p>15 today falls in her royalty cycle.</p> <p>16 I don't have that information but</p> <p>17 she would have royalty statements complete</p> <p>18 through the last cycle which is up to six</p> <p>19 months ago.</p> <p>20 Q. Have you had any projections made</p> <p>21 for any future book sales of No Easy Day?</p> <p>22 A. Have I had any made?</p> <p>23 Q. Yes.</p> <p>24 A. I would say, no to that.</p> <p>25 Q. Would that even be possible to do?</p>	<p style="text-align: right;">Page 235</p> <p>1 Sevier</p> <p>2 educated judgments about what you</p> <p>3 think a book will sell. In fact we do</p> <p>4 that everyday in our business because</p> <p>5 it is our job to keep enough books in</p> <p>6 stock at retailers in order to meet</p> <p>7 demand. And so that is something that</p> <p>8 we do all the time.</p> <p>9 BY MR. FURMAN:</p> <p>10 Q. Has that been done for No Easy</p> <p>11 Day?</p> <p>12 A. Sure. I guess in that respect we</p> <p>13 have the book modeled at various retailers</p> <p>14 to make sure that it is in stock and</p> <p>15 available to buy when people want it.</p> <p>16 Q. How would I get a copy of that</p> <p>17 modeling or information about that modeling?</p> <p>18 A. I actually do not know the answer</p> <p>19 to that question. Some computer system has</p> <p>20 that I suppose.</p> <p>21 Q. I am sorry?</p> <p>22 A. Some computer system would have</p> <p>23 that I suppose but I don't have access to it</p> <p>24 as far as I know.</p> <p>25 Q. We know that computers are</p>
<p style="text-align: right;">Page 234</p> <p>1 Sevier</p> <p>2 A. I mean you can model sales and you</p> <p>3 can come up with estimates and --</p> <p>4 Q. How would you do that?</p> <p>5 A. You take into account the current</p> <p>6 rate of sale, rates of sale of other books</p> <p>7 that are either similar or for the same</p> <p>8 audience over time and then you make a</p> <p>9 judgment based on whatever knowledge you</p> <p>10 have, belief you have about book publishing</p> <p>11 and the retail environment and the interest</p> <p>12 of the American public and you come up with</p> <p>13 an estimate.</p> <p>14 Q. And so it would not be based on</p> <p>15 hard information. It would be based on some</p> <p>16 experience level and some guesswork in terms</p> <p>17 of trying to determine what interest would</p> <p>18 be in the future in a particular book that</p> <p>19 has been out on the shelves for several</p> <p>20 years?</p> <p>21 MR. JOHNSTON: Object to the</p> <p>22 form of the question.</p> <p>23 THE WITNESS: I wouldn't use the</p> <p>24 word "guesswork."</p> <p>25 I would say you can make</p>	<p style="text-align: right;">Page 236</p> <p>1 Sevier</p> <p>2 complicated things but who at Dutton would</p> <p>3 know where on the computer system I would</p> <p>4 find that if I were to ask for it?</p> <p>5 A. Our sales department is in charge</p> <p>6 all of that kind of stuff so the Penguin</p> <p>7 sales department would be the ones who are</p> <p>8 controlling those models.</p> <p>9 Q. If you wanted to find that out who</p> <p>10 would you call at the sales department?</p> <p>11 A. I would start with one of our in</p> <p>12 print sales directors.</p> <p>13 Q. Who would you call?</p> <p>14 A. Probably a guy named Dandy Dudley.</p> <p>15 Q. Dandy?</p> <p>16 A. Andy Dudley.</p> <p>17 Q. Dudley, D-U-D-L-E-Y?</p> <p>18 A. Yes.</p> <p>19 Q. Anyone else? If Andy is on</p> <p>20 vacation who else would you call?</p> <p>21 A. I guess I would call his boss, the</p> <p>22 group sales director. His name is Loren</p> <p>23 Monaco.</p> <p>24 Q. They work for Penguin?</p> <p>25 A. That's right.</p>

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<p style="text-align: right;">Page 237</p> <p>1 Sevier</p> <p>2 Q. So their employer is Penguin, not</p> <p>3 Dutton?</p> <p>4 A. Right. Penguin Random House if</p> <p>5 you really want to get specific.</p> <p>6 Q. And so if I were to ask them for</p> <p>7 any modeling that they have for projected</p> <p>8 future sales of No Easy Day, if you were me</p> <p>9 you would call them?</p> <p>10 A. That is my best guess. I can't</p> <p>11 promise they can deliver it for you but that</p> <p>12 is who I would start with if it were me and</p> <p>13 I were trying to accomplish that.</p> <p>14 Q. Are you aware in one way or</p> <p>15 another other than learning it through</p> <p>16 lawyers whether Mr. Bissonnette forfeited</p> <p>17 any of the royalties from No Easy Day to the</p> <p>18 government?</p> <p>19 A. Yes. He told me.</p> <p>20 Q. When did he tell you this?</p> <p>21 A. You know that settlement was in</p> <p>22 progress for so long that I can't even</p> <p>23 recall when the final word came down about</p> <p>24 that.</p> <p>25 Q. Did the government, I don't need</p>	<p style="text-align: right;">Page 239</p> <p>1 Sevier</p> <p>2 area.</p> <p>3 Did there come a point in time</p> <p>4 after August 30th, 2012 when you or anyone</p> <p>5 at Dutton came to the determination that the</p> <p>6 book should have been submitted for</p> <p>7 prepublication review?</p> <p>8 A. I wouldn't say anybody came to a</p> <p>9 determination about that, no.</p> <p>10 Q. If the book was submitted for a</p> <p>11 prepublication review do you know one way or</p> <p>12 another what would have happened?</p> <p>13 A. In what sense?</p> <p>14 Q. What the government would have</p> <p>15 decided.</p> <p>16 A. No.</p> <p>17 MR. FURMAN: All right. I have</p> <p>18 no further questions.</p> <p>19 We are going to follow up with</p> <p>20 some -- we will talk with your lawyers</p> <p>21 for some of the information we were</p> <p>22 looking for in terms of book sales and</p> <p>23 other things that were on the record</p> <p>24 but I want to thank you, Mr. Sevier,</p> <p>25 for your time and your patience with</p>
<p style="text-align: right;">Page 238</p> <p>1 Sevier</p> <p>2 to know -- go into details about any</p> <p>3 attorney-client information but do you know</p> <p>4 one way or another if the government</p> <p>5 investigated Dutton in connection with the</p> <p>6 release of No Easy Day?</p> <p>7 A. I don't know. I have never seen</p> <p>8 any evidence or heard that they did.</p> <p>9 Q. Did Dutton forfeit any profits or</p> <p>10 make any settlement with the government in</p> <p>11 connection with the release of No Easy Day?</p> <p>12 A. No.</p> <p>13 Q. Is Dutton still selling and</p> <p>14 earning income based on No Easy Day?</p> <p>15 A. Yes.</p> <p>16 Q. Do you know any round number for</p> <p>17 the last year, 2016?</p> <p>18 A. I would have to look it up. I</p> <p>19 don't know the number.</p> <p>20 MR. FURMAN: I think I am done.</p> <p>21 I just want to step outside with</p> <p>22 Izabell and ask her a few questions.</p> <p>23 (Recess)</p> <p>24 BY MR. FURMAN:</p> <p>25 Q. Just a few more questions on one</p>	<p style="text-align: right;">Page 240</p> <p>1 Sevier</p> <p>2 us in this deposition. Thank you.</p> <p>3 THE WITNESS: You are welcome.</p> <p>4 EXAMINATION</p> <p>5 BY MR. JOHNSTON:</p> <p>6 Q. Mr. Sevier, there are a few</p> <p>7 subjects that I want to ask you, kind of</p> <p>8 isolated questions on some, probably be</p> <p>9 jumping around a little bit.</p> <p>10 A. Okay.</p> <p>11 Q. With regard to the contract with</p> <p>12 Mr. Bissonnette my understanding is that</p> <p>13 through you -- through the contract</p> <p>14 negotiations Dutton agreed to pay a million</p> <p>15 dollar advance for this book, correct?</p> <p>16 A. That's right.</p> <p>17 Q. At the time that you agreed to pay</p> <p>18 that million dollar advance did you know</p> <p>19 whether or not the book would be submitted</p> <p>20 to a prepublication review?</p> <p>21 A. No, we did not.</p> <p>22 Q. Did you pay that advance with the</p> <p>23 understanding that it might be submitted to</p> <p>24 a prepublication review and the delay</p> <p>25 intendant to such a review?</p>

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<p style="text-align: right;">Page 241</p> <p>1 Sevier</p> <p>2 MS. FOLEY: Objection to the</p> <p>3 form of the question.</p> <p>4 THE WITNESS: I would say we</p> <p>5 entered into the agreement knowing</p> <p>6 that it might have to go through</p> <p>7 review.</p> <p>8 BY MR. JOHNSTON:</p> <p>9 Q. Ultimately a paperback version of</p> <p>10 the book was also published, correct?</p> <p>11 A. Yes.</p> <p>12 Q. My understanding is that the</p> <p>13 paperback version came out later than is</p> <p>14 normal, is that understanding accurate?</p> <p>15 A. Yes. It came out later than a</p> <p>16 typical book's public reprint -- a paperback</p> <p>17 reprint would have come out. Yes, that's</p> <p>18 right.</p> <p>19 Q. Why is that?</p> <p>20 A. That determination would have been</p> <p>21 made by the sales department based upon</p> <p>22 factors like the rate of sale of hardcover,</p> <p>23 I think that that is the best answer I can</p> <p>24 give you.</p> <p>25 Q. Okay. Let me ask this. Is the</p>	<p style="text-align: right;">Page 243</p> <p>1 Sevier</p> <p>2 rights for the book had resulted in the</p> <p>3 preparation of a movie, would that have had</p> <p>4 an impact on book sales?</p> <p>5 MR. FURMAN: Objection.</p> <p>6 THE WITNESS: Yes.</p> <p>7 BY MR. JOHNSTON:</p> <p>8 Q. If he had been able to promote the</p> <p>9 book No Easy Day in connection with the</p> <p>10 publication of his second book No Hero would</p> <p>11 that have likewise had an impact on book</p> <p>12 sales?</p> <p>13 A. Yes.</p> <p>14 Q. And with regard to all of those I</p> <p>15 should ask, would the impact on book sales</p> <p>16 have been positive, that is more book sales?</p> <p>17 A. Yes.</p> <p>18 Q. If someone were -- I want to</p> <p>19 change subjects on you for a minute.</p> <p>20 If someone were to suggest at the</p> <p>21 trial of this case that Dutton moved the</p> <p>22 publication date in response to the Jeh</p> <p>23 Johnson letter what would you say?</p> <p>24 A. That is factually incorrect.</p> <p>25 Q. Is it accurate to say that the</p>
<p style="text-align: right;">Page 242</p> <p>1 Sevier</p> <p>2 fact that the paperback version was</p> <p>3 published later than is normal, is that some</p> <p>4 evidence of the fact that the hard copy was</p> <p>5 still selling well?</p> <p>6 A. Yes.</p> <p>7 Q. There has been some discussion</p> <p>8 today about a prepublication review and the</p> <p>9 fact that that would have impacted and</p> <p>10 perhaps delayed the publication date of the</p> <p>11 book. And that that would have therefore</p> <p>12 have impacted sales. I want to talk about</p> <p>13 that subject generally with you.</p> <p>14 If you accept that a</p> <p>15 prepublication review would have delayed the</p> <p>16 publication and had a negative impact on</p> <p>17 sales let me ask you would Mr. Bissonnette</p> <p>18 being able to promote the book unencumbered</p> <p>19 have had a positive effect on book sales?</p> <p>20 A. Yes.</p> <p>21 Q. Would him be able -- him being</p> <p>22 able to promote the paper book have had a</p> <p>23 positive impact on paper book sales?</p> <p>24 A. Yes.</p> <p>25 Q. If it had occurred that movie</p>	<p style="text-align: right;">Page 244</p> <p>1 Sevier</p> <p>2 publication date was moved from the 11th of</p> <p>3 September to the 4th of September before the</p> <p>4 Jeh Johnson letter had even been received?</p> <p>5 A. Yes.</p> <p>6 Q. What were the reasons for the</p> <p>7 change of the publication date?</p> <p>8 A. The news story had broken two</p> <p>9 weeks earlier than we expected.</p> <p>10 As I testified earlier today the</p> <p>11 exposure that we got from media, from the</p> <p>12 book's media moment is the crucial part of a</p> <p>13 book's sales life.</p> <p>14 Q. Did it have anything to do with</p> <p>15 Mr. Bissonnette's name being disclosed. Do</p> <p>16 you recall if that was a factor at all?</p> <p>17 A. I wouldn't say that was a factor</p> <p>18 in the decision to change the publication</p> <p>19 date.</p> <p>20 Q. Okay. Was the change of the</p> <p>21 publication date made known Mr. Podlaski in</p> <p>22 advance of it being implemented?</p> <p>23 A. Yes.</p> <p>24 Q. Did he ever voice any opposition</p> <p>25 to the publication date being changed from</p>

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<p style="text-align: right;">Page 245</p> <p>1 Sevier</p> <p>2 the 11th to the 4th?</p> <p>3 A. No. Not that I remember.</p> <p>4 Q. Do you still have Exhibit 110 in</p> <p>5 front of you there, sir, that is the Dutton</p> <p>6 contract?</p> <p>7 A. Yes.</p> <p>8 Q. You were asked some questions</p> <p>9 about paragraph 4B which is on page numbered</p> <p>10 3 of the contract. Do you have that there</p> <p>11 in front of you?</p> <p>12 A. Yes.</p> <p>13 Q. Let me just ask you, sir, is that</p> <p>14 language that was inserted for</p> <p>15 Mr. Bissonnette or alternatively is that a</p> <p>16 part of the boilerplate of your contract?</p> <p>17 MS. FOLEY: You are talking</p> <p>18 about the whole paragraph?</p> <p>19 MR. JOHNSTON: The whole</p> <p>20 paragraph.</p> <p>21 THE WITNESS: Paragraph 4B is</p> <p>22 part of our boilerplate. It is in</p> <p>23 every contract I think as far as I</p> <p>24 know.</p> <p>25 BY MR. JOHNSTON:</p>	<p style="text-align: right;">Page 247</p> <p>1 Sevier</p> <p>2 separately.</p> <p>3 Setting him aside do you know of</p> <p>4 anyone who recommended to Mr. Bissonnette</p> <p>5 that he not submit the book to a</p> <p>6 prepublication review?</p> <p>7 A. I don't know of anyone other than</p> <p>8 Mr. Podlaski who gave him any advice on</p> <p>9 that.</p> <p>10 Q. Are you aware of whether</p> <p>11 Mr. Podlaski affirmatively recommended that</p> <p>12 he not submit the book to a prepublication</p> <p>13 review?</p> <p>14 A. Yes. That was what I was told by</p> <p>15 the author before the contract was even</p> <p>16 signed.</p> <p>17 Q. Did Mr. Bissonnette ever</p> <p>18 misrepresent anything to you?</p> <p>19 A. No.</p> <p>20 Q. As you sit here today do you have</p> <p>21 an opinion as to his character and</p> <p>22 reputation for truthfulness and honesty and</p> <p>23 veracity?</p> <p>24 MR. FURMAN: Objection.</p> <p>25 THE WITNESS: Matt is one of the</p>
<p style="text-align: right;">Page 246</p> <p>1 Sevier</p> <p>2 Q. Specifically the language about,</p> <p>3 "If a failure to publish is caused by</p> <p>4 restrictions by governmental agencies," is</p> <p>5 that boilerplate that is in all of your</p> <p>6 contracts?</p> <p>7 A. Yes. To my knowledge it is.</p> <p>8 Q. Did you ever hear that</p> <p>9 Mr. Bissonnette had terminated Mr. Podlaski?</p> <p>10 A. If I did I don't remember it.</p> <p>11 Q. Did you follow Mr. Podlaski's</p> <p>12 advice on -- following his vetting of the</p> <p>13 manuscript of the book?</p> <p>14 A. Yes.</p> <p>15 Q. Did you consider that he did a</p> <p>16 good job with regard to that vetting and the</p> <p>17 references to the public record?</p> <p>18 A. As far as I could tell, yes, he</p> <p>19 did.</p> <p>20 Q. Did you ever at any time suggest</p> <p>21 to Mr. Bissonnette that he should not submit</p> <p>22 the book to a prepublication review?</p> <p>23 A. No.</p> <p>24 Q. Let me exclude Mr. Podlaski for</p> <p>25 the moment. I will ask about him</p>	<p style="text-align: right;">Page 248</p> <p>1 Sevier</p> <p>2 most honest, straightforward straight</p> <p>3 shooters I have ever worked with.</p> <p>4 BY MR. JOHNSTON:</p> <p>5 Q. Let me jump to this time frame of</p> <p>6 around August 31 of 2012. You were asked</p> <p>7 whether you recommended or considered</p> <p>8 submitting the book to a prepublication</p> <p>9 review at around that time and you indicated</p> <p>10 that -- well, I won't try to rephrase your</p> <p>11 answer.</p> <p>12 Let me just say during that period</p> <p>13 of time did you have discussions, e-mails</p> <p>14 and other communications with Mr. Podlaski?</p> <p>15 A. Yes.</p> <p>16 Q. Did he ever recommend a</p> <p>17 prepublication review before or after the</p> <p>18 receipt of the Jeh Johnson letter?</p> <p>19 A. No. He did not.</p> <p>20 Q. Can you tell me in at least in a</p> <p>21 general way who would have had copies of the</p> <p>22 book on August 31, I don't mean every person</p> <p>23 by name but -- let me go through some</p> <p>24 examples.</p> <p>25 Was the book sent out to reviewers</p>

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Page 249	Page 251
<p>1 Sevier</p> <p>2 already or do you know?</p> <p>3 A. Gosh, I don't remember.</p> <p>4 Q. Would that be normal before a</p> <p>5 publication review to have copies sent to</p> <p>6 reviewers?</p> <p>7 A. Yes. Oh, I am sorry. Can you</p> <p>8 repeat the question?</p> <p>9 Q. Yes.</p> <p>10 Would it be normal to send copies</p> <p>11 of the book to book reviewers before the</p> <p>12 publication date?</p> <p>13 A. Yes.</p> <p>14 Q. This may be repetitious in which</p> <p>15 case I apologize if it is.</p> <p>16 MR. FURMAN: Objection.</p> <p>17 MR. JOHNSTON: Sustained.</p> <p>18 BY MR. JOHNSTON:</p> <p>19 Q. Did Mr. Podlaski ever change his</p> <p>20 advice with regard to whether</p> <p>21 Mr. Bissonnette was under an obligation to</p> <p>22 submit the book to a prepublication review?</p> <p>23 A. Not that I ever saw.</p> <p>24 MR. JOHNSTON: Pass the witness.</p> <p>25 MR. FURMAN: Are you done?</p>	<p>1 Sevier</p> <p>2 point I would have because of the</p> <p>3 identity issue but that ship won't set</p> <p>4 sail thanks to Fox News.</p> <p>5 MS. FOLEY: So then you have</p> <p>6 the royalty statements. You at least</p> <p>7 will have them but we can collect</p> <p>8 those as well.</p> <p>9 MR. JOHNSTON: I thought I had</p> <p>10 produced those to you because I</p> <p>11 thought I asked for those from Elise</p> <p>12 already.</p> <p>13 MS. LEMKHEN: I don't think we</p> <p>14 have the universe of what is out</p> <p>15 there. We have some of them.</p> <p>16 MR. JOHNSTON: You sure should.</p> <p>17 If you tell me what you don't have, I</p> <p>18 will work with you.</p> <p>19 MS. FOLEY: Okay. Then the</p> <p>20 last -- my last notes have to do with</p> <p>21 Andy Dudley and whether or not he has</p> <p>22 any modeling for No Easy Day.</p> <p>23 MR. FURMAN: Right. For future</p> <p>24 sales.</p> <p>25 MS. FOLEY: If there is any</p>
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<p>1 Sevier</p> <p>2 MR. JOHNSTON: Yes, sir.</p> <p>3 MR. FURMAN: "Pass the witness"</p> <p>4 is so Texas.</p> <p>5 MS. FOLEY: Mike, I want to just</p> <p>6 maybe on the record we can resolve --</p> <p>7 MR. FURMAN: On the record?</p> <p>8 MS. FOLEY: Yes, on the record.</p> <p>9 I wanted to potentially resolve with</p> <p>10 everyone in the room what additional</p> <p>11 information you thought you needed.</p> <p>12 Can we do that?</p> <p>13 I have taken notes I think you</p> <p>14 wanted the fully executed version of</p> <p>15 the contract?</p> <p>16 MR. FURMAN: Yes. Fully</p> <p>17 executed version of the contract.</p> <p>18 MS. FOLEY: Authentication</p> <p>19 affidavit.</p> <p>20 MR. FURMAN: Right.</p> <p>21 MS. FOLEY: And would that -- do</p> <p>22 you object to that?</p> <p>23 MR. JOHNSTON: No, not at all.</p> <p>24 MS. FOLEY: All right. So --</p> <p>25 MR. JOHNSTON: I mean at one</p>	<p>1 Sevier</p> <p>2 document that will show some kind of</p> <p>3 modeling for future sales. That is on</p> <p>4 the record. I will call you -- I</p> <p>5 understand the request. I will call</p> <p>6 you and let you know if there is</p> <p>7 anything.</p> <p>8 MR. FURMAN: The other item that</p> <p>9 I think if you can help me resolve it,</p> <p>10 obviously Dick Heffernan is no longer</p> <p>11 at Dutton. If you have his last known</p> <p>12 address somewhere hopefully in a nice</p> <p>13 warm place.</p> <p>14 (Continued on next page)</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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Page 253	Page 255
1 Sevier	1 Sevier
2 MS. FOLEY: Or you want someone	2
3 who can speak to communication.	3 INDEX OF EXAMINATION
4 MR. FURMAN: With the sales	4 WITNESS PAGE
5 force, yes.	5 BENJAMIN PATRICK SEVIER 5
6 MS. HIROSE: He is in Scarsdale.	6 By Mr. Furman 5
7 MR. FURMAN: Thank you.	7 By Mr. Johnston 240
8 (Time noted: 4:12 p.m.)	8
9	9 EXHIBITS
10	10 EXHIBIT NO. MARKED
11	11 108 Document Bates numbered 7
12 BENJAMIN PATRICK SEVIER	12 PRH1 through 90
13	13
14 Subscribed and sworn to	14 109 Draft of the contracts 112
15 before me this day	15 for book
16 of 2017.	16
17	17 110 Copy of the publishing 117
18	18 contract
19	19
20	20
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25	25
Page 254	Page 256
1 Sevier	1 Sevier
2 CERTIFICATE	2 DEPOSITION ERRATA SHEET
3 STATE OF NEW YORK)	3 Assignment No. JU498551
4 : ss	4 Case Caption: Matthew Bissonnette vs.
5 COUNTY OF NEW YORK)	5 Kevin Podlaski and Carson
6 I, Steven Neil Cohen, a Registered	6 Boxberger, LLP
7 Professional Reporter and Notary Public	7 DECLARATION UNDER PENALTY OF PERJURY
8 within and for the State of New York, do	8 I declare under PENALTY OF PERJURY
9 hereby certify: That BENJAMIN PATRICK	9 that I have read the entire transcript of
10 SEVIER, the witness whose deposition is	10 my Deposition taken in the captioned
11 herein before set forth, was duly sworn by	11 matter or the same has been read to me,
12 me and that such deposition is a true record	12 and the same is true and accurate, save if
13 of the testimony given by such witness.	13 any, as indicated by me on the DEPOSITION
14 I further certify that I am not	14 ERRATA SHEET hereof, with the
15 related to any of the parties to this action	15 understanding that I offer these changes
16 by blood or marriage and that I am in no way	16 as if still under oath.
17 interested in the outcome of this matter.	17
18 I further certify that neither the	18 BENJAMIN PATRICK SEVIER
19 deponent nor a party requested a review of	19 Subscribed and sworn to on the ____ day
20 the transcript pursuant to Federal Rule of	20 of ____, 2017 before me,
21 Civil Procedure 30(e) before the deposition	21
22 was completed.	22 Notary Public,
23 In witness whereof, I have	23 in and for the State of ____.
24 hereunto set my hand this 12th day of	24
25 January 2017.	25
STEVEN NEIL COHEN, RPR	

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DEPOSITION ERRATA SHEET

Assignment No. J0498551

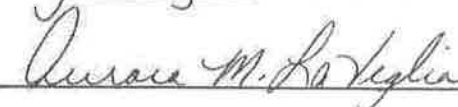
Case Caption: Matthew Bissonnette vs.
Kevin Podlaski and Carson
Boxberger, LLP

DECLARATION UNDER PENALTY OF PERJURY

I declare under PENALTY OF PERJURY
that I have read the entire transcript of
my Deposition taken in the captioned
matter or the same has been read to me,
and the same is true and accurate, save if
any, as indicated by me on the DEPOSITION
ERRATA SHEET hereof, with the
understanding that I offer these changes
as if still under oath.


BENJAMIN PATRICK SEVIER

Subscribed and sworn to on the 27th day
of January, 2017 before me,


AURORA M. LaVEGLIA

Notary Public,
in and for the State of New York.

AURORA M. LaVEGLIA
Notary Public, State of New York
No. 24-4878599
Qualified in Rockland County
Commission Expires November 24, 2018



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